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CYCLOPEDIA
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CYCLOPEDIA *of* AMERICAN GOVERNMENT

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VOLUME III

PRESIDENT-YUKON

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MAPS

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CYCLOPEDIA OF AMERICAN GOVERNMENT

VOLUME III

PRESIDENT OF THE SENATE. In 32 states the lieutenant-governor is *ex officio* president of the upper branch of the state legislature. In 14 states the senate elects its own presiding officer, called the "Speaker of the Senate" in Tennessee—elsewhere the "President." Eight states have no lieutenant-governor, and upon the president of the senate devolve the governor's duties, in case that office becomes vacant. In Oregon the president of the senate follows the secretary of state and the attorney general in the gubernatorial succession; in Utah he follows the secretary of state. In 14 states, where the lieutenant-governor presides over the senate, the president of the senate *pro tempore* is placed next in succession to the governor.

This office is closely analogous to that of the president of the United States Senate (*see*), but the state officer has relatively more power than the national Vice-President (*see*). In the states where he is elected by and from the senate, he has, of course, the rights of a member. In Michigan, Mississippi and Texas, the lieutenant-governor, acting as president of

the senate, is given the right to debate any question in committee of the whole, and in Kentucky he may also vote. In the other states he has a casting vote in case of a tie in the senate, and, in some instances, in joint assembly, of which he is ordinarily president. In some states he appoints the senate committees. But his position is less autocratic than that of the speaker, for the senate's smaller numbers do not call for so rigorous a rule. A much larger proportion of its members are men of legislative experience, and hence less in need of and less tractable under party discipline. The office of president of the senate is one of more dignity than influence, and is often sought as a stepping-stone to the governorship.

See LEGISLATURE AND LEGISLATIVE REFORM; LIEUTENANT-GOVERNOR; RULES IN STATE LEGISLATURES; SENATE, STATE; STATE ASSEMBLY; STATE LEGISLATURE.

References: P. S. Reinsch, *Am. Legislatures* (1907); S. P. Orth, "Am. State Legislatures" in *Atlantic Monthly*, XCIV (1904), 728-739.
G. H. HAYNES.

PRESIDENT OF THE UNITED STATES, AUTHORITY AND INFLUENCE OF

Foundation of the Presidency.—A remarkable and in many ways unexpected result of the Federal Convention of 1787 was the provision for a President of the United States. In general the people of the colonies distrusted executive power. Except in Connecticut and Rhode Island the governors were appointed by a higher authority and were looked upon with more or less suspicion and dislike. This feeling was reflected in the new government of the revolutionary period. Massachusetts had no governor till 1780; Pennsylvania till 1790 had an executive council. The Contin-

tal Congress and the Congress of the Confederation were examples of a parliamentary government, in which every executive and judicial officer was appointed by Congress and removable by Congress.

On the other hand the experience with Congress from 1775 to 1787 aroused popular prejudice against that form of national government. One of the earliest resolutions adopted by the convention provided for a government of three departments. The outcome of the convention was the creation of a very powerful and highly concentrated executive; and it is

impossible to resist the belief that the convention was willing to provide for a strong presidency because everybody knew that the first President would be George Washington.

Constitutional Powers.—Significantly the President, in the first article of the Constitution (Sec. vii, ¶ 2), is endowed with the great function of vetoing acts of Congress, subject to the overruling of a two-thirds vote of both houses. The main authority of the President is usually derived from Article II, in which, however, more than half the text is given up to provisions as to his choice, compensation, and oath of office. The President has ten carefully enumerated powers: (1) command of the army, navy, militia; (2) requiring opinions of heads of departments; (3) pardons; (4) treaty making (two-thirds of the Senators concurring); (5) appointment of officials (a majority of the Senate confirming); (6) information to Congress and recommendation of measures; (7) calling the houses in extra session and adjourning in case of disagreement; (8) receiving public ministers; (9) taking care that the laws be faithfully executed; (10) commissioning officers. The President also has a sphere of duty in guaranteeing to the states a republican form of government, and in protecting them from invasion and from domestic violence.

Extent of Powers.—Who could deduce from these few and moderate powers the real place, weight and authority of the President of the United States accorded directly by the Constitution, or indirectly by the development of executive power? As commander-in-chief of the military forces and vested with the power of nomination and commission, the President directs all the military operations in time of war. He has control over the foreign relations of the United States. His appointing power, authority to require opinions of heads of departments and commissioning power put him at the head of a hierarchy of public servants numbering more than two hundred thousand. His power to summon Congress in extra session and recommend measures gives him a legislative initiative of great significance. His relations to state governments in times of disorder practically make him the arbiter between rival governors or legislators. The simple clause "he shall take care that the laws be faithfully executed" makes him the supervisor of the federal service, the inciter of federal prosecutions, and the center of assertion of national authority in case of revolution or rebellion. Conjoined with these officially described powers is a vast field of authority founded on unwritten principles and practices which in the course of time come to have almost the force of law.

Power of Removal. Grouping these express, implied and traditional elements together, perhaps the most important authority of the President is his headship of the executive serv-

ice. His great influence over this service turns upon the adoption in 1789, by the casting vote of the Vice-President, of a statute which recognized the power of the President to remove heads of departments without reference to the Senate (*see REMOVAL OF PUBLIC OFFICERS*), though the consent of that body was necessary for the confirmation of the appointment.

The power to block removals from offices in appointments to which they participate is exercised by many state senates and by boards of aldermen and governor's councils; but has never been recognized in the Federal Government except for the brief period of the Tenure of Office Act, passed in 1867, modified in 1869 and repealed in 1887. The power of removal throughout the federal system is exercised, in like manner, by the appointing power, for whatever reasons seem good: except that under the Civil Service Act of 1883 no person can be removed for refusing to contribute to a political fund. Here is the key to the efficiency of the Federal Government. Every person who draws a salary from the United States government must obey legal directions given to him and is expected to be honest and active on pain of removal. Inasmuch as nearly the whole federal executive service is subdivided into ten departments, this system in the hands of a capable President makes a steady and effective policy possible.

During the last thirty years all the Presidents, partly acting under the statute of 1883, partly under rules which they themselves authorized, have provided for the appointment of subordinates by competitive examination; and that system now covers all but about 50,000 of the persons in the service of the government. This system has to a large degree removed the temptation to remove officials simply for political reasons; but it leaves the authority to discipline public officials undiminished.

Military Powers.—The military powers of the President, together with his authority to keep order and assist the states against rioters, when necessary, give him control of the most powerful physical force in the country. He acts, of course, under the general limitations of the Constitution, such as the necessity of congressional appropriations for the support of the military; and the power of Congress to declare war. Except during President Johnson's administration from 1865 to 1869, and in a long struggle with President Hayes over the use of troops at the polls in the South, Congress has never sought to bring the President to terms by refusing to authorize the necessary organization of military forces. In all the wars since the Revolution, the power of the President to appoint military officers among whom members of Congress and their friends have always been included, has given him a considerable advantage in dealing with Congress. In general, Congress is willing to vote for increases of military force for which

the President asks, though it is by no means so ready to approve military reforms which involve a reduction of officers or a reduction of expenses.

Administrative Powers.—Another great presidential force comes through the President's relations to the Cabinet, a body nowhere mentioned in the Constitution, even the heads of departments being alluded to only in two incidental clauses (Art. II, Sec. ii, ¶¶ 1, 2). The Federal Convention abandoned its first plan of an executive council, and left the organization of the business of the government to be determined by statute. Inasmuch as there were in operation in 1787 several federal executive departments, established by Congress, everybody expected that there would continue to be such departments. Accordingly in the first Congress bills were passed organizing the Departments of State, War, and the Treasury; subsequently by subdivision and by the coming in of new fields of activity, the departments have been increased to ten, each created by act of Congress. Inasmuch as the President under the Constitution appoints the heads of departments, the ultimate right to make decisions with regard to the work of all the departments is in the hands of the President. Congress controls the number of subordinates by its detailed appropriations and, particularly in the case of the Treasury Department (*see*), prescribes some duties for the Secretary by statute. New federal services, the extension of the post office and other federal advantages, come from legislation; but it is the President who follows up the legislation and controls, if he so desires, the discretion of the heads of the departments within the boundaries of the law.

The President also harmonizes the administration and thus supplies the governmental solvent which is so lacking in all the state governments. For instance, the Secretary of State, the Secretary of the Treasury, and the Secretary of Commerce cannot have different policies with regard to the import trade, because the President sees to it that they act on the same principle or that somebody resigns. The Cabinet meetings are a kind of clearing house for the general business of the executive. Every sensible President leaves plenty of leeway to his secretaries and interferes in details as little as possible; but his is the final authority in the decision of all questions, whether involving discretion or the application of the law; hence the public looks to the President if something goes wrong in one of the departments; and in many cases heads of departments have been forced to resign because the President could not or would not stand against the popular pressure.

Legislative Powers.—Nominally the President has no express power to draft or introduce legislation. He may, under the Constitution, "recommend to their consideration such

measures as he shall regard as necessary and expedient" (Art. II, Sec. iii) but the cases are very few in which the President submits the text of a bill, and asks Congress to enact it. Nevertheless many measures have been drafted by heads of departments and introduced through committees or members of Congress, as for instance the Second Bank Act of 1816 and the Walker tariff of 1846. A more direct process is not necessary, inasmuch as the President powerfully affects the preparation of the laws. He tells members of Congress what he would like and further informs them what he would not like and probably veto. He sometimes cuts off or threatens to cut off their influence on the President's patronage. He arranges with heads of departments to present the views of the administration, and to press measures upon committees and leading members of Congress. He sends in argumentative messages, sometimes repeatedly. When a bill is framed and under discussion he may allow his opinions of it to be known; and in a last resort may use his veto power (*see*), which practically gives him a final weight in legislation all but equal to that of two-thirds of the members of both houses.

Since 1885, all Presidents have occasionally appealed to the people by direct addresses, by messages to Congress, or through their friends in the public press in order to put a pressure upon their Representatives and Senators to vote for measures which the President is urging. During the administrations of President Roosevelt and President Taft, very significant measures, particularly acts on transportation and the tariff of 1909, assumed their final shape under this pressure upon Congress. The taking away of the previous powers of the speaker (*see*) of the House of Representatives, in 1910, has tended to enlarge the legislative authority of the President. The public seems to recognize that some one person or very small group of persons should have the responsibility of preparing measures and pressing them to a vote; and a vigorous President is the most effective fulcrum for such action.

Execution of the Laws.—One reason for this legislative weight of the President, which was neither stated in nor foreseen by the Constitution, is that the American people are coming to recognize that the people who carry out the laws ought to have some hand in making them. The Constitution does, however, give explicit power to the President to "take care that the laws be carefully executed" (Art. II, Sec. iii) and this is one of the largest fields of executive power. In an indirect way he takes care to execute the laws by appointing suitable persons to aid in executing them; and by calling upon Congress to enact such laws as are necessary for carrying out the laws already on the statute books. Directly, the President takes care that the laws are faithfully executed by removing or causing

the removal of unfaithful servants of the government. Under the judicial systems, both federal and state, criminal prosecutions are generally instigated by an executive official, the prosecuting attorney, and prosecutions are pursued through or in harmony with the attorney general of the United States though that functionary, or the President, may set in motion the federal prosecuting officials. He may thus follow up officials who have betrayed their trust and he may also throw the weight of his influence into prosecutions of individuals or corporations whom he believes to be violators of law. The prosecutions under the Sherman Anti-Trust Act of 1890 (*see*) are known to have sprung from the direct and express will of the Presidents under whom it was carried out.

In a less obvious way the President is seeing to it that the laws be faithfully executed, when he keeps an eye on the executive service of the government; when he tries to promote efficiency through commissions and other agencies to find out what is going on in the service; when he spurs up or supports collectors of revenue in the enforcement of the tariff and other tax laws; when he uses his discretion to hold up land entries till their real character be found out; when he makes forest reservations; when he insists on the treaty rights of the United States.

The duty of the faithful execution of the laws is especially seen in times of disturbance. Many Presidents from Washington down have called out regular troops and sailors or state militia to execute the laws against combinations otherwise too powerful. Thus, in 1894, President Cleveland called out troops to prevent interference with the carriage of the mails under federal laws in Chicago (*see* INSURRECTIONS, SUPPRESSION OF).

Relations with the States.—The President, being always in session, and standing as the head of the nation, is the usual center of official communication with the states, particularly with reference to the keeping of order. Under the Constitution he may furnish federal forces on the request of the legislature or of the governor, if the legislature cannot be convened, to suppress disorder (Art. IV, Sec. iv). Such a call was declined by President Tyler in the case of Rhode Island in 1842, but is usually heeded. Recent Presidents have also created a new body for discussion by inviting the governors of all the states to meet and discuss general public questions; but the governors have formed an organization of their own which is not dependent upon the call of the President (*see* HOUSE OF GOVERNORS).

Foreign Relations. Ever since the foundation of the federal republic the President has exercised discretion over the relations of the United States with other countries. This comes about both through written and unwritten authority. First of all the President is the offi-

cial head of the nation and to him are accredited all the representatives of foreign powers, and he has the stated right to receive them (Art. II, Sec. iii). He also issues the exequaturs of the consuls, without which they cannot perform their functions.

The President also nominates and may remove the Secretary of State, the assistant Secretary of State and other officers of the department, through whom correspondence with foreign nations is carried on. He nominates all the foreign ministers; through his general authority over the Secretary of State controls their instructions; and he may remove them, and in many cases has removed them, for such reasons as seem good to him. In practice, the negotiation of no treaties is begun except by the direction or assent of the President. Even though the treaty has been negotiated in accordance with his wish he may decline to submit it to the Senate for ratification, or may withdraw a treaty which he or a predecessor has submitted to the Senate. If a two-thirds majority of the Senate approves the treaty, the President must still complete the ratification before it becomes part of the law of the land (*see* NEGOTIATION OF TREATIES).

The President, further, is the direct representative of the rights and privileges of American citizens in foreign countries and may make demands in their behalf upon foreign governments. Through the combination of his power over foreign affairs and his power to command the Army and Navy, and to call out the militia, the President may practically commit the United States to such a hostile attitude that war will result. Upon the President also falls the responsibility of stating the great principles of American foreign relations, such as the Monroe Doctrine, and the Open Door in China, which in course of time become accepted principles. No field of governmental power within the United States is so concentrated as are its foreign relations under the President. By his authority to receive and appoint ambassadors, he has the power to recognize or refuse to recognize a new state among the family of nations (*see* RECOGNITION OF NEW STATES).

General Influence.—Beyond any legally defined authority the President of the United States has great weight in government through his general influence on public sentiment. The inaugurals and annual messages of the President are read as official announcements of a policy, and many of the special messages sent to Congress are really meant to affect that body through the comments of newspapers and their constituents on the President's proposals. Since 1885 all Presidents have sought to arouse public sentiment by public addresses (*see*) sometimes delivered on great public occasions such as the unveiling of a public monument, frequently delivered at public dinners.

PRESIDENT OF THE UNITED STATES, CONSTITUTIONAL POWERS OF

Presidents McKinley, Roosevelt and Taft, went upon long trips and made set speeches and off hand addresses from the rear platform of trains. This meant personal contact with a great number of people and an opportunity to reiterate and to enforce the announcement of beliefs and purposes.

Modern Presidents are also in constant relation with newspaper men, a staff of whom frequent the White House and often travel with the President. A multitude of different people get to the President at the White House, chiefly from the desire to meet the head of the nation personally. In these addresses, conversations, and conferences, the President constantly appears as a directing force. Candidates for the presidency are discussed from the point of view of their ability to meet and impress thousands of their countrymen. The undeniable power of the President and particularly his power to examine into and set right any trouble anywhere in the executive service can be invoked by those who have complaints. The President's correspondence is enormous; a high officer of state has said that the President spends too much time in

telling other people where to go in order to find out what they want. A great part of the President's authority comes from this immense personal prestige.

See CIVIL SERVICE, FEDERAL; EXECUTIVE AND CONGRESS; EXECUTIVE AND EXECUTIVE REFORM; EXECUTIVE AND JUDICIARY; EXECUTIVE DEPARTMENTS; IMPLIED POWERS; ORDINANCES, EXECUTIVE PARDON; PRESIDENT OF THE UNITED STATES, CONSTITUTIONAL POWERS OF; VETO POWER.

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PRESIDENT OF THE UNITED STATES, CONSTITUTIONAL POWERS OF

Constitutional Provisions.—The first section of Article II of the Constitution provides that the executive power of the United States shall be vested in a President who shall be elected for a term of four years by a college of electors chosen in the states, each state to have a number of electors equal to the whole number of Senators and Representatives to which that state may be entitled in Congress. That this indirect mode of election almost at once became but a form, direct election becoming the substitute, is so well known as to require no comment. The powers of the President have greatly changed since the present government was established, but this change has been a more gradual one. There can be but little doubt that those who framed and adopted the Constitution intended that the President should be, primarily, a titular chief executive whose functions should be political in character, that is, consist of the performance of formal duties, and the exercise of certain discretionary powers which should not be subject to judicial review or control. Among these may be mentioned especially the conduct of foreign affairs, the issuing of necessary proclamations, the summoning of special sessions of Congress, the nominating and commissioning of officers of the United States, the recommending of measures for the action of Congress, the receiving of ambassadors and other public ministers, and the general direc-

tion of the army and navy as their commander-in-chief.

Political Functions.—In addition to acting as the chief executive, with respect to these purely political matters, the President has, however, come to exercise two other quite distinct functions in the field of national politics and administration. In the first place he is now recognized as the chief of his political party—not indeed as its “boss” but as the one who represents and is supposed to voice the will of those who have elected and support him (*see* PARTY, PLACE AND SIGNIFICANCE OF). Whatever may be the theory, the members of the Senate and of the House of Representatives necessarily are influenced by, and, indeed, controlled in a very large measure by, the wishes and opinions of their respective constituencies. The President, alone, is able, and is expected, to seek his guidance from the intelligent public opinion of the whole community, and especially that opinion as it finds expression in the councils of his party. Thus it is that no matter what may be his feelings as to the impropriety of a confusion of executive and legislative functions it is unavoidable not only that the President should seek, by advice and exhortation, to secure from Congress the legislation which the country as a whole seems to him to desire and demand, but that he should, to a certain extent, attempt to obtain this action by the use of such authority as he may

have as the head of his party, as well as by the powers of patronage which he possesses. That this presidential right of dictation to Congress may be carried to an improper extent is possible, but that it must be exercised to a certain extent is inevitable. There is a growing custom of having important legislative propositions drafted by the President's immediate executive advisors, and introduced into Congress and their enactment there urged as "administration" measures.

Administrative Chief.—The second respect in which the President of the United States has come to occupy a position different from, and more important than, that originally intended for him, is as administrative chief. If we may judge by the early acts of Congress establishing the great executive departments (*see*), the idea was that though the heads and chief officials should be nominated by the President, the Congress should retain the general control and direction of their actions. The act establishing the Department of State (*see* STATE, DEPARTMENT OF), or, as it was then called, the Department of Foreign Affairs, gave to the President the general directing power, but this department has, of course, to deal principally with those matters that are purely political in the sense which has been mentioned above. But the provisions and phraseology of the acts creating the departments of the Treasury and the Post Office clearly evinced the intention that these branches of the federal administrative service should report to Congress and act under its direction and control. The constitutional power of Congress thus to retain and exercise this control received the approval of the Supreme Court in the case of *Kendall vs. United States* (12 *Peters* 524), decided in 1838.

With, however, the increase of federal administrative functions in number and variety, the exigencies of administrative efficiency have impelled Congress to grant direct administrative control to the President, and have compelled the courts in many cases to recognize the existence, even in default of express statutory authorization, of the power of the President to issue orders to federal administrative officials, obedience to which will be compelled by the writ of mandamus. In fact, moreover, the President's position as administrative chief is rendered possible by the summary right of removal from office which he possesses—a right which it is practically certain may not be limited by Congress. The dominating control possible of exercise by the President by this means was established once for all by President Jackson at the time that he obtained the withdrawal of federal funds from the state banks, by removing the Secretary of the Treasury who refused to do this, and appointing a Secretary who would. But Congress, aware of its own inability to exercise a continuing efficient administrative control, has not been unwilling

to place the burden and responsibility upon the President, and recent years have witnessed a rapidly increasing number of commissions and other administrative agencies created by Congress and placed under the direct control of the President.

Discretionary Powers.—With respect generally to all of the laws of Congress, with the exception of the few that are self-executing, the power of the President is decisive, in that it lies within his discretionary judgment to take the necessary administrative action, or, in cases where the laws are violated, to direct the institution of the necessary civil or judicial proceedings for their enforcement. Also, if such proceedings may be instituted without his express direction, he may, by orders issued through his Attorney General (*see*) secure their discontinuance. It is established that a mandamus will lie to compel the performance by administrative officials and even by the heads of the great executive departments of acts purely ministerial in character, that is, which involve the exercise of no discretionary judgment. But no such writ will be issued to the President himself, and the only relief from malfeasance or nonfeasance of office upon his part is by way of impeachment (*see*), or, of course, at the polls at the expiration of his term of office.

The powers granted to the President by the Constitution are not subject to withdrawal or curtailment by Congress or by the courts. Thus with reference to all those acts of a political nature which he is called upon to perform, the courts will assume no reviewing power; and the same is true where he exercises a discretionary administrative power constitutionally vested in him. Even when his acts are purely ministerial in character, the courts will not, as has been said, issue a writ of mandamus or of injunction directed to him. In no case, however, can an officer, or indeed, any individual derive any legal support for a right or immunity claimed by him from an order which the President is without the legal authority to give. Congress may enact rules and regulations for the government of the land and naval forces of the country, but it may not curtail the President's power as commander-in-chief (*see*). So, similarly, it may not control the appointment of those officers the selection of which lies within the hands of the President; nor, it seems practically certain, may it curtail his power to remove them from office. Similarly exempt from congressional control are his pardoning powers, and his control of foreign relations. Generally speaking, the President acts through the chiefs of the great executive departments, and their acts are, in view of law, his acts. So also the acts of subordinate administrative officials are, legally speaking, the acts of the official superiors at whose direction they are performed, and thus, ultimately, in cases where the supe-

rior speaks for the President, of the President himself. There are, however, certain functions the performance of which the President may not delegate to others. These are those regarding which, it may fairly be held that the Constitution or law intends him to exercise his own individual judgment. Thus, in the case of *Runkle vs. United States* (122 U. S. 543), the Supreme Court held that where it was provided by law that the dismissal of an officer of the army should not become operative until approved by the President, the actual personal approval by him had to be shown.

Execution of Laws.—The special powers given to the President by the Constitution are elsewhere separately considered under the appropriate titles (see **APPOINTMENTS TO OFFICE**; **ARMY**; **CIVIL SERVICE**; **ORDINANCES**, **EXECUTIVE**; **PARDON**; **REMOVAL OF OFFICIALS**; **WAR POWER**, **CONSTITUTIONAL**; etc.) and will not therefore, receive treatment here. One general power, or rather duty, remains, however, to be here considered. This is the obligation laid upon him by the Constitution to "take care that the laws are faithfully executed" (Art. II, Sec. 3). Strictly, and properly construed, this is not a grant of power. It creates an obligation upon the President faithfully to perform the duties laid upon him by the Constitution or by the statutes enacted or treaties entered into in pursuance thereof. As is the case with the legislative or judicial departments of the Federal Government, the President in whom is vested the executive authority, has only those powers which have been specifically granted to him. There are no powers inherent in him solely by reason of the fact that he is the chief executive. Hence he has no authority to act in the absence of existing law, nor, of course, in violation of law. It is true that, within the sphere of the powers granted to him by the Constitution or delegated to him by treaty or statute, he often has a wide discretion as to how he shall act, or whether he shall act at all, but this, of course, is a wholly different matter from acting in the absence of law. When, therefore, in fine, the President is called upon to take care that the laws are faithfully executed, the obligation is that he shall employ for this purpose such constitutional, statutory, and treaty powers as he may possess. It is not a general authorization, as has sometimes been argued, to take such action as he may see fit so long as he does not actually violate an existing law. Thus, to illustrate by an example drawn from a subject of recent controversy, the President would not have the constitutional authority, however inadequate may be the provisions of existing law, or however urgent the necessity, to establish rules for the management and disposition of the public lands of the United States, except as authorized so to do by acts of Congress. It is to be observed that in the *Neagle* case (*In re Neagle*, 135 U. S. 1) expressions are

used which seem to go somewhat beyond this doctrine. That case is, however, an isolated one; moreover the dissenting opinion of Justice Lamar, concurred in by Chief Justice Fuller (see *FULLER*, *MELVILLE W.*), is a very strong one; the case cannot therefore reasonably be held to establish a principle contrary to that which has been stated above.

See **EXECUTIVE AND CONGRESS**; **EXECUTIVE AND EXECUTIVE REFORM**; **EXECUTIVE AND JUDICIARY**; **EXECUTIVE POWER, THEORY OF**; **PRESIDENT, AUTHORITY AND INFLUENCE OF**.

References: J. A. Fairlie, *National Administration of the U. S.* (1905); G. Cleveland, *Presidential Problems* (1904); J. H. Dougherty, *Electoral System of the U. S.* (1906); F. J. Goodnow, *Administrative Law of the U. S.* (1905); J. H. Finley and J. F. Sanderson, *Am. Executive and Executive Methods* (1908); P. S. Reinsch, *Readings on Am. Government and Politics* (1911), ch. x; W. W. Willoughby, *Constitutional Law of the U. S.* (1910), chs. lvii-lx.

W. W. WILLOUGHBY.

PRESIDENT PRO TEMPORE. The name president *pro tempore* is applied to the United States Senator who is chosen by the Senate to assist the Vice-President as presiding officer of that body. No Senator by becoming president *pro tempore* loses any of his rights or privileges as Senator. The president *pro tempore* was originally, as the name shows, a temporary officer, selected for distinct occasions as a substitute for the Vice-President. When the Vice-President died or became President, the president *pro tempore* became the permanent presiding officer of the Senate, although he did not become Vice-President. In 1890 the Senate decided that the president *pro tempore* "shall hold the office during the pleasure of the Senate until another is elected." In the absence of both the Vice-President and the president *pro tempore*, the latter selects the Senators who shall act as presiding officer. Being usually a prominent party leader, if not the leader of the dominant party in the Senate, the president *pro tempore* frequently exercises greater power as presiding officer than the Vice-President. For two periods, aggregating ten years, the president *pro tempore* was allowed to select the Senate committees. Had President Johnson been removed from office (1868), under the law of succession then in use, Senator Wade, then president *pro tempore*, would have been acting President of the United States. See **PRESIDENTIAL SUCCESSION**; **SENATE**. **Reference:** W. Wilson, *Constitutional Government in U. S.* (1909), 131-133.

R. L. A.

PRESIDENTIAL BEE. A phrase applied to the ambitions of a would-be candidate for the presidential nomination, who is said to have "the presidential bee in his bonnet."

O. C. H.

PRESIDENTIAL ELECTIONS

Origin.—The system of electing the President of the United States was devised by the Federal Convention (*see*) of 1787, to accord with political conditions destined to change within a few years; and with no notion of the future importance of those elections as the barometer of political parties, and as a means of securing political action. The Convention early made up its mind to establish a strong and single executive, and floundered among various methods of choosing that official. An obvious way, familiar under the Confederation, and practised in several states, was that the legislative body should select him; but it was plain that such a system would be likely to make the President the creature of Congress. Direct popular vote of the whole country was hardly conceived at that time, and would have withdrawn from the small states an influence for which they never ceased to contend throughout the Convention.

Precedent for a choice by electors has been sought in the practice of the Holy Roman Empire and of the College of Cardinals of the Roman Curia; but the only example with which the Convention could have been familiar was that of the election of the Senate in Maryland by a body of temporary electors. Hence the method chosen—namely, election by a special board or college of electors, chosen in each state for the sole purpose of indicating the choice of that state, and then dissolving—is as near a political invention as anything in the Constitution. It was based upon the state political organizations and totally ignored the probable growth of great national parties. It was a piece of elaborate non-partisan machinery, intended to secure a President who should have fame and popularity in a considerable number of states.

System.—The longest section of the Constitution is devoted to the detail of the presidential election, including the following important factors: (1) The electoral college in each state was to be in number equal to the total number of Senators and Representatives to which the state was at the time of each election entitled in the Congress then existing. (2) The electors were to be chosen in each state "in such manner as the legislature thereof" might direct. (3) "No Senator, Representative or holder of federal office of trust or profit" could be an elector. (4) Each elector was to vote for two persons, one of whom should not be an inhabitant of the elector's state. (5) The person having the greatest number of all the electoral votes (if a majority) was chosen President; and the person having the next largest number (whether a majority or not) was chosen Vice-President.

(6) In case of a tie, or if no one had a majority, the House of Representatives was to choose the President, voting by states; in such an election the person having the largest number of electoral votes, after the President had been chosen, was *ipso facto* Vice-President. Evidently the Convention believed that it had taken every reasonable precaution to break ties and also to prevent choices of President by pluralities, though the Vice-President might be so chosen.

Failure of the Original System.—This carefully digested and elaborately stated plan broke down after two trials, and would have failed earlier but for the great personal popularity of the first President, George Washington. In the three elections of 1788-89, 1792 and 1796 there was a liberal scattering of votes, 13 persons receiving votes in 1796; but in 1800 there were only five names voted on. As early as 1792 an understanding was established between the electors in some of the different states that they should combine on the same man; and from 1796 on there were always, with the exception of the two elections of 1820 and 1824, regular party candidates. In practice most of the members of the electoral colleges belonged to a party, and expected to support it; and after 1824 it became a fixed principle that the electors offered themselves for the choice of the voters or legislatures upon a pledge to vote for a pre-designated candidate.

In the tie election of 1800 the careful fabric of the constitutional provision was shown to be so defective that the Twelfth Amendment (*see*) was at once introduced, and was proclaimed to be in force September 25, 1804, in time to control the election of that year, and all subsequent elections.

Qualifications.—The choice of a President in practice depends to some degree on the qualifications of the candidate and the electors. The only legal qualifications for the candidate are that he must be a native of the United States, thirty-five years old, and a resident for fourteen years. The age qualification has never come in question, and President Arthur is the only one whose place of birth was ever made a subject of particular inquiry.

The qualifications of electors are not set forth in the Constitution, but in practice they are always voters, frequently men of reputation who have never sought other office. The question what is an office of trust or profit under the United States, has never been completely settled. In the election of 1876, the Democratic governor of Oregon refused to certify one of the Republican electors on the ground that he was at the time of his election

PRESIDENTIAL ELECTIONS

a federal office-holder, but the other two electors reappointed him to the vacancy, and the Electoral Commission affirmed it. In 1912 an attempt was made to throw out one of the Republican electors of Maine on the ground that he held a small federal office.

Methods of Choosing Electors.—Inasmuch as the Federal Constitution left it to the state legislatures to decide how the electors should be chosen, throughout the early period four different methods were employed:

(1) The whole body of electors designated by the legislature in joint session; under this system, in 1820, the New York legislature chose electors as follows: Adams, 26; Jackson, 1; Crawford, 5; Clay, 4.

(2) The whole body of electors chosen by the two houses of the legislature in concurrence; this led to such deals and confusion as that in Pennsylvania in 1800 (7 Adams electors, and 8 Jefferson electors). In 1824 the number of states which chose their electors by legislatures was only 6; and the practice speedily died out except in South Carolina which held to it down to 1860; and the unusual case of Colorado in 1876.

(3) Choice of electors in congressional or other districts; the chief exponent of that system was Maryland, in which, therefore, we find several split electoral votes. In 1892 the legislature of Michigan districted that state for the purpose of splitting the electoral vote. Though successful, the act was highly unpopular.

(4) Choice of electors by popular vote on a general state ticket; this gives the whole number of state electors to the party polling a plurality of the popular vote. This method prevailed in 1796 in six out of the sixteen states, and gained ground; but no statistics of the popular vote were collected before the election of 1824. About 1830 began to appear the political almanacs which made a point of tabulating the popular vote and thus made possible comparisons and predictions.

Relative Popular Vote.—The percentages in the tables which are appended show many variations in the proportion of the vote to the population. In 1912 it was about 16 per cent; in 1824 the recorded vote was not 4 per cent; but in 1828 (when all but two of the states used the popular vote) the proportion at once rose to over 12 per cent.

The differences from state to state are due principally to four causes. (1) In the early elections and as far down as 1840, the number of voters was much smaller in proportion to the population than it afterwards became. Massachusetts for example—a state always interested in politics—in 1824, though the finally accepted candidate for President came from that state, cast a vote equal to but 7 per cent of its population; and that of Ohio was but 8½ per cent. The enlargement of the suffrage and other causes so affected those states that

in 1840 the Massachusetts vote was 17 per cent; and the Ohio vote was 18 per cent. (2) In the slaveholding states up to 1860 the negro population varied from a sixth to a half of the total population; and though there were negro voters in North Carolina till 1835 their number was inconsiderable. Hence the total potential voting population was correspondingly diminished. (3) Similar causes have been working in the South since 1876; the almost complete exclusion of negroes in six of those states by constitutional amendments (*see* NEGRO SUFFRAGE; SUFFRAGE) necessarily diminishes the possible number of votes. (4) In some parts of the country, particularly those southern states in which there is no probability of choosing any but Democratic electors, people are little interested in going to the polls. This affects congressional and state elections more than the national; so that in 1884 New Jersey, with a population of 130,000 less than Alabama, cast 108,000 more presidential votes.

Federal Regulation.—The Twelfth Amendment (*see*) corrected a manifest defect in the machinery of elections, which had been felt for several years.

In general the conduct of presidential elections, including registry, form of ballot, protection of the polls and count of the popular vote is in the hands of the states. Although Congress, under the Constitution, possesses and has exercised the power to regulate elections to Congress, its principal relation to the voters for presidential electors has been through the Fourteenth and Fifteenth Amendments (*see*) which affect the suffrage in the states, and therefore the suffrage for presidential electors.

By statutes of May 31, 1870 and Feb. 28, 1871 (both of which were repealed in 1894), on the supervision of congressional elections, Congress also practically supervised the choice of presidential electors, which was made at the same time and by the same voters. A statute of February 25, 1865, prohibited the military and naval forces from interfering "with any general or special election held in any state."

Time.—Under the Constitution "the Congress may determine the time of choosing the electors"; and March 1, 1792, it was enacted that the choice should be made within 34 days preceding the first Wednesday of December. By a statute of January 23, 1845, electors were thenceforward to be chosen on the Tuesday following the first Monday in November, in each quadrennial year. By a later statute, taking effect in 1876, the same day was set in biennial years, for the choice of members of Congress (with some slight exceptions). Since nearly all the states hold their state election for the year on the same day, and in many cases local and municipal elections are appended, that fixed day has become the great national election day.

Congress further has power to determine the day on which the electors "shall give their votes; which day shall be the same throughout the United States." The statute of March 1, 1792, fixed the day for voting in the electoral colleges as the first Wednesday in December. By the act of January 23, 1845, it was further provided that if a state should hold an election on the day fixed but should "fail to make a choice—then the electors may be appointed on a subsequent day in such manner as the state shall by law provide." This was intended to cover the case of states which required the absolute majority of the votes cast for a choice; hence the statute ceases to be effective now that a plurality elects in all the states.

Status of Electors.—The question of vacancy in the electorship is covered by the same statute, under which, "each state may by law provide for the filling of any vacancy or vacancies which may occur in its college of electors when such college meets to give its electoral votes." This provision was severely tested in 1876, in Oregon.

Under the now universal system of a choice of electors by pluralities of the popular vote, on general ticket, the electors are nominally state officers, empowered to vote according to their best judgment for President; but they are actually markers to transmit officially the information that the state has designated the candidates for which its total electoral vote is to be cast. On a very close vote the electors may be split, the most popular man or men on the minority creeping above the least popular on a majority ticket. This happened in California in 1880 and 1912, and in Ohio in 1892.

Counting the Vote.—Inasmuch as the choice of electors is made by voters enfranchised by the states, under general regulations made by the states, and as the vote is canvassed and declared by the states, the ascertaining of the final result would seem to be a mere matter of arithmetic. In practice, it has been an uncertain and contested function, and gave rise, in 1877, to serious difficulties. The Constitution on this subject provides simply that the votes shall be sent to the president of the Senate who, in the presence of the Senate and House of Representatives, shall "open all the certificates and the votes shall then be counted." By whom they are to be counted is not expressly stated; for many years it was expected that the president of the Senate would count them himself.

By act of March 1, 1792, Congress made elaborate provision for sending to the seat of government the results of the electoral colleges; and enacted that Congress should sit on the second Wednesday in February for the counting of the vote. Down to 1821 the votes were actually counted and so certified by the president of the Senate. The first protest against the acceptance of electoral votes was

made in 1817 on the ground that Indiana did not become a state till after its choice of electors. In 1821 similar objection was made to the vote of Missouri which was "counted in the alternative" (*see*); and later similar objections were made to the first vote of Michigan in 1837; and to the votes of Georgia which were counted in the alternative in 1869 and again in 1881.

The Civil War, with the temporary withdrawal of eleven states, complicated the presidential election. February 6, 1865, the Senate and House adopted the so-called twenty-second joint rule, to the effect that if at the time of count objection were made to any electoral vote, it should not be received unless both houses affirmatively voted to receive it. By a statute of February 8, 1865, it was declared that no valid election had been held in 1864 in any of the eleven states named in the act. In the election of 1873 the votes of Louisiana and Arkansas were, under the twenty-second rule, not counted, there being double returns, neither of which were adopted. In 1876 the Senate withdrew from the twenty-second rule, thereby leaving the nation without any adequate machinery for the count of the close election of that year. Twenty-one votes from South Carolina, Florida, Louisiana and Oregon were covered by double returns, a contingency for which no provision had ever been made. The crisis was surmounted by the creation, January 29, 1877, of an extra-constitutional "electoral commission" (*see*) empowered to decide which of these rival returns should be accepted; it gave them all to the Republican candidates, who were thus elected by a majority of one electoral vote (*see* Table XXI).

Ten years later, by the act of February 3, 1887, and supplementary act of Oct. 19, 1888, a new and workable principle was adopted, by enacting that where there is but one return from a state, it shall not be rejected; if there are double returns, Congress shall accept the finding of a tribunal previously set up by the state with power to decide such controversies; if there are double returns and the state has not made such provision, then the vote shall not be counted unless both houses agree. Since that time no difficulties have occurred except questions of the qualifications of some electors who were held to occupy federal offices which made them ineligible.

Election of President by the House of Representatives. The Federal Constitution wisely provided a machinery for adjusting contests when no person had received the constitutional majority of the electoral vote. In the election of 1800 party lines were for the first time, closed up. Except for one vote thrown off from one of the Federalist candidates, Pinckney, so that he should not come in ahead of John Adams, every elector was either Federalist or Republican and Jefferson and Burr

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had each 73 votes. Under the original Constitution, the House was to decide by vote of states in case of a tie (both persons having a majority); and that function was assumed by a House of Representatives which was about to expire, and which had a Federalist majority both numerical and voting by states. Since under the Constitution they must choose between two Republicans, they took refuge in trying to choose the man who had not been intended for President by their adversaries. Hence, during 35 ballots, 8 states voted for Jefferson, 6 for Burr, and 2 were divided. On the thirty-sixth ballot, February 17, 1801, members from Delaware, Maryland, South Carolina and Vermont abstained from voting, thus giving to Jefferson 10 states, and the election (see Table IV).

The Constitution further provided that in case no person had a majority of the electoral votes the House should choose from the five highest candidates, which was changed by the Twelfth Amendment to the three highest. In 1824 none of the four presidential candidates had a majority of the electoral votes, and the election therefore went to the House of Representatives. In that House Clay was the candidate who had the most popularity, and he probably would have been elected but that he was fourth in the number of electoral votes. February 9, 1825, the vote was taken, and 13 of the 24 states voted for John Quincy Adams, though he received only 87 votes out of 212 members present and voting (see Table VII, below).

There has been no later case of choice by Congress, though it was suggested in 1877 that one of the Republican electors should throw off his vote, thereby producing a tie, and enabling the House to break it. In that case Samuel J. Tilden would undoubtedly have been chosen President.

Election of Vice-President by the Senate.—The Constitution likewise provides for the breaking of a tie for the second place on the ticket; but no such contingency happened, previous to the Twelfth Amendment. Burr was not chosen Vice-President by the Senate, in 1801: as the Constitution then stood, when Jefferson had been elected President, Burr, as the holder of the greatest number of votes remaining, was the constitutional choice of the electors for Vice-President.

Under the Twelfth Amendment the candidates for the vice-presidency are voted on separately; in case no one has a majority, the Senate chooses between the two highest candidates. This contingency has happened but once. In the election of 1836, Johnson, who was Van Buren's running-mate, failed to get the 23 votes of Virginia and was left one short of a majority. The election was therefore thrown into the Senate, which used its discretion to choose Johnson by 33 to 16 votes (see Table IX, below). In such elections two-thirds

of the Senate must be present; and a majority of the whole number must unite in the choice.

Minority Elections.—Under the Constitution no person can be elected President or Vice-President without a majority of the total electoral vote, or of the House voting by states, or of the Senate. The constitutional phrase "a majority of the whole number of electors appointed" has been construed to mean a majority of the electors chosen by the states participating. Thus in the election of 1788-89 only 69 of the 91 assigned electors were chosen (see Table II). In 1864, 11 of the 36 states were out of status to participate, and only 233 of the 317 electoral votes were cast, and in 1868, 294 out of 317 were cast; but in these cases the electoral votes of the successful candidates (Lincoln and Grant) were a majority of all the electoral votes assigned to all the states. In several of the early elections (particularly 1820) a few electors either died between their choice and the meeting of the electoral colleges or neglected to cast their votes. It must be presumed that in such cases the constitutional majority would be a majority not of the actual votes in the colleges, but of the electors chosen, whether they fulfilled their duty of voting or otherwise.

The majority of the total popular vote has no constitutional bearing upon the choice of President, but in most cases the successful candidate has had more popular votes than his nearest rival. The votes of Garfield and Hancock in 1880, Cleveland and Blaine in 1884, Harrison and Cleveland in 1888, ran within a few thousands of each other, but from the figures printed in the accompanying tables it will be seen that the candidate successful in the electoral vote also had a plurality of the popular vote. Nevertheless, according to the usually received count, Hayes, in 1876, received about 200,000 votes less than Tilden; and Harrison in 1888 was elected over Cleveland, though he had 96,000 fewer votes.

When it comes to a comparison of the vote of the successful candidate against the total polled by all his opponents there are numerous minority Presidents; beginning with Polk in 1844; Taylor in 1848; Buchanan in 1856; Lincoln in 1860 (a minority of over 900,000); Hayes in 1876, 344,000 behind; Garfield (1880); Cleveland (1884); Harrison (1888); and Cleveland (1892). In 1912, Wilson, the successful candidate, was in a minority of 2,500,000.

Proposed Changes.—Ever since the beginning of the Government efforts have been made to change the system of presidential election, presumably by securing a uniform rule for choosing electors in one of the following methods: (1) choice of all electors by districts; (2) choice of all electors by general ticket; (3) choice by a general direct vote, suggestions for which can be traced back to 1826; (4) choice by Congress out of candidates nominated by

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the states; (5) choice by lot from among the retiring Senators; (6) choice by a combination of sections, each having the right of succession, or a veto on the others. On none of these propositions has the necessary two-thirds vote of both houses been secured.

Of late years suggestions have been made that the President ought to be elected by general popular vote instead of by the unusual and formal method of indirect choice. The existence of small but tenacious third parties makes it difficult to secure a majority of the total popular vote; and hence such a system must allow a choice by a plurality. The change would get rid of the present practice of swinging a state block of electoral votes by a small plurality. Thus in 1884, New York showed a plurality for Cleveland of 1,143 in a total vote of 1,108,000, and he was elected. In 1888 Harrison carried the state by a plurality of 14,443 in a total vote of 1,317,000, and was thereby elected. On the other hand the result of the election under the present method is usually known by midnight of election day; whereas in a general popular vote the counts and recounts might last for weeks; and there is a great temptation to swell the votes in sure states casting large majorities on one side or the other.

Actualities of Election.—The final choice of a President depends upon many factors not recorded in the Constitution or statute books. He must first of all be nominated, and that depends in part on his own personality and reputation throughout the country, and in part upon the management and machinery of his party, from the local primary election up to the national convention. Since 1836 no one has ever been elected President except by a strong national party antedating the election. Third party movements have sometimes had the balance of power, as in the case of the Liberty party of 1844 and the Free Soilers of 1848 and the Progressives of 1912; but the requirement of a majority of the whole electoral vote makes it very hard to carry an election without long and tedious preparation.

The presidential campaign is the greatest political event of its quadrennial and absorbs the political activities of the country for six months before the election. It was long a tradition that a candidate must not take the field in his own behalf—though it was done by Scott in 1852. Since 1880 the opposite practice has grown up, and in 1912 every one of the six candidates on the ticket made numerous speeches in widely different parts of the country.

See BALLOT; CAMPAIGNS, POLITICAL; COMMITTEES, PARTY; CONVENTION, POLITICAL; CORRUPT PRACTICES ACTS; COUNTING IN THE ALTERNATIVE; ELECTION RETURNS; ELECTIONS, CONTESTED; ELECTIONS, FEDERAL CONTROL OF; ELECTION SYSTEM IN UNITED STATES; ELECTORAL COLLEGE; ELECTORAL COUNT FOR PRESIDENT; NOMINATING SYSTEMS; NOMINATION OF

PRESIDENT; PARTY, PLACE AND SIGNIFICANCE OF; PLATFORM, POLITICAL; QUALIFICATIONS FOR OFFICE; SENATE OF UNITED STATES; SUFFRAGE.

References: J. Bryce, *Am. Commonwealth* (4th ed., 1910), chs. lxxi, lxxii; C. A. O'Neil, *Am. Electoral System* (1887); D. A. McKnight, *Electoral System of the U. S.* (1878); J. H. Dougherty, *Electoral System of the U. S.* (1906); E. Stanwood, *Hist. of the Presidency* (1898), *Hist. of the Presidency from 1897 to 1909* (1912); A. B. Hart, *Practical Essays in Am. Gov.* (1894), ch. iii; J. Story, *Commentaries* (5th ed., 1891), §§ 1453-1460; R. L. Ashley, *Am. Fed. State* (1902), 326-340; Finley and Sanderson, *Am. Executive* (1908); W. W. Willoughby, *Am. Constitutional System* (1904), Pt. II, ch. vii; "Counting Electoral Votes" in *House Misc. Docs.*, 44 Cong., 2 Sess. No. 13 (1877); *House Manual*; *Senate Manual* (annual). Selected lists and tabulations of popular and electoral votes for President appear in many places, particularly, *Am. Almanac* (1830-1862); *Whig Almanac* (1838-1855); *Tribune Almanac* (1856-1913); *World Almanac* (1888-1913); *Niles' Weekly Register* and *Niles' National Register* (1811-1848); *Appleton's Annual Cyclopedia* (1861-1875); *Am. Annual Cyclopedia* (1876-1902); *Am. Year Book, 1912*. These tabulations were presumably gathered by correspondence with state officials, but there are many minor differences. F. W. Hewes and H. Gannett, *Scribner's Statistical Atlas of the U. S.* (1885), contains diagrams, maps of the distribution of votes, the popular vote, and the percentage of leading votes in each state, covering all elections from 1788 to 1880. In Edward Stanwood, *Hist. of the Presidency* (1898) and *Hist. of the Presidency from 1897 to 1909* (1912) will be found tables of popular and electoral votes through the election of 1908. Maps of the distribution of the popular and electoral votes for 1800, 1824, 1836 and other elections down to 1900 will be found scattered through A. B. Hart, Ed., *Am. Nation* (1904-1908), XI-XXV. A semiofficial statement of the electoral votes through the election of 1900 is in R. B. Mosher, *Executive Register of the U. S., 1789-1902* (1903); and that statement has been followed (with a few corrections) in the accompanying tables. For the popular vote there are no available figures back of 1824. From that year to 1884 the figures used in the tables are derived partly from political almanacs and partly from Hewes and Gannett, *Scribner's Statistical Atlas of the U. S.* (which is presumably founded on the almanacs), corrected by reference to Stanwood's two books. On the elections from 1888 to 1912 there is a statement of the popular vote, based on the reports of state officials filed in the Department of State, in Department of Commerce, *Statistical Abstract of the U. S. No. 35, 1912* (1913), 727-733; and it has been followed in the tables appended.

ALBERT BUSHNELL HART.

TABLE I. SUMMARY OF PRESIDENTIAL ELECTIONS, 1788-1912

PRESIDENTIAL ELECTIONS

ELECTION YEAR	TABLE NUMBER	POPULAR VOTE			ELECTORAL VOTE		SUCCESSFUL CANDIDATE				NEAREST OPPONENT			
		Census Population of Voting States	Total Popular Vote	Per Cent of Census Population	States Voting	Electoral Votes Cast	Washington (I) -- Washington (II) -- J. Adams (Jefferson-Burr) -- Jefferson (I) -- Jefferson (II) -- Madison (I) -- Madison (II) -- Monroe (I) -- Monroe (II) -- (J. Q. Adams) J. Q. Adams Jackson (I) -- Jackson (II) -- Van Buren (Vice-President) -- Harrison	Popular Vote	Per Cent of Total	Electoral Vote	(No Opposition) -- (No Opposition) -- Jefferson -- J. Adams Burr -- Pinckney -- King -- G. Clinton -- King -- (J. Q. Adams) -- Jackson -- J. Q. Adams -- Clay -- Harrison -- Van Buren -- Clay -- Cass -- Scott -- Fremont -- Douglas -- McClellan -- Seymour -- Greeley -- Tilden -- Hancock -- Blaine -- Cleveland -- Harrison -- Bryan -- Bryan -- Parker -- Bryan -- Roosevelt	Popular Vote	Per Cent of Total	Electoral Vote
1788-89	II	---	---	---	10	69	Washington (I) --	---	---	69	(No Opposition) --	---	---	---
1792	III	---	---	---	15	132	Washington (II) --	---	---	132	(No Opposition) --	---	---	---
1796	III	---	---	---	16	138	J. Adams	---	---	71	Jefferson	---	---	68
1800	IV	---	---	---	16	138	(Jefferson-Burr)	---	---	73	J. Adams	---	---	65
1801 ¹	IV	---	---	---	16	16 ¹	Jefferson (I) --	---	---	10 ¹	Burr	---	---	4 ¹
1804	IV	---	---	---	17	176	Jefferson (II) --	---	---	162	Pinckney	---	---	14
1808	V	---	---	---	17	175	Madison (I) --	---	---	122	King	---	---	47
1812	V	---	---	---	18	217	Madison (II) --	---	---	128	G. Clinton	---	---	89
1816	VI	---	---	---	19	217	Monroe (I) --	---	---	183	King	---	---	34
1820	VI	---	---	---	24	232	Monroe (II) --	---	---	231	King	---	---	1
1824	VII	6,903,566	352,062	5.1	24	261	(Jackson)	---	---	99	(J. Q. Adams)	---	---	84
1825 ¹	VIII	---	---	---	24	24 ¹	J. Q. Adams	---	---	13 ¹	Jackson	---	---	7 ¹
1828	VIII	12,142,926	1,156,368	9.5	24	261	Jackson (I) --	647,231	55.9	178	J. Q. Adams	509,097	41.0	83
1832	X	11,833,399	1,217,691	10.2	24	286	Jackson (II) --	687,502	56.5	219	Clay	530,189	43.5	49
1836	XI	12,204,953	1,498,205	12.6	26	294	Van Buren	761,549	50.8	170	Harrison	549,394	36.6	73
1837 ²	IX	---	---	---	26	49 ²	(Vice-President) --	---	---	33 ²	---	---	---	16 ²
1840	XII	16,296,709	2,410,778	14.7	26	294	Harrison	1,275,017	52.8	234	Van Buren	1,128,702	46.8	60
1844	XIII	16,296,709	2,700,061	16.3	26	275	Polk	1,337,243	49.3	170	Clay	530,189	43.5	49
1848	XIV	22,286,787	2,871,908	12.8	30	290	Taylor	1,360,101	47.3	163	Cass	1,220,514	42.5	127
1852	XV	22,379,384	3,144,201	13.5	31	296	Pierce	1,601,474	50.9	254	Scott	1,386,578	44.0	42
1856	XVI	22,379,384	4,047,967	18.1	31	296	Buchanan	1,838,169	45.4	174	Fremont	1,335,264	33.3	114
1860	XVII	30,337,132	4,676,853	15.3	33	303	Lincoln (I) --	1,866,352	39.9	180	Douglas	1,378,157	29.4	12 ³
1864	XVIII	22,451,774	4,024,792	17.9	25	233	Lincoln (II) --	2,216,967	55.0	212	McClellan	1,808,552	44.9	21
1868	XIX	33,056,229	5,724,701	16.3	34	294	Grant (I) --	3,015,068	52.6	214	Seymour	2,709,633	47.3	80
1872	XX	38,155,505	6,467,073	16.9	35	352	Grant (II) --	3,597,070	55.6	286	Greeley	2,834,079	43.8	86 ⁴
1876	XXI	38,115,641	8,412,605	22.0	38	369	Hayes	4,033,950	47.9	185	Tilden	4,284,757	50.9	184
1880	XXII	49,371,339	9,211,090	18.7	38	369	Garfield	4,449,053	48.3	214	Hancock	4,442,035	48.2	155
1884	XXIII	49,371,339	10,058,390	20.4	38	401	Cleveland (I) --	4,912,696	49.1	219	Blaine	4,849,680	48.5	182
1888	XXIV	60,808,519	11,381,409	18.7	38	401	Harrison	5,444,337	47.8	233	Cleveland	5,540,050	48.7	158
1892	XXV	61,999,361	12,043,693	19.4	44	444	Cleveland (II) --	5,551,414	46.2	277	Harrison	5,190,802	45.1	145
1896	XXVI	62,270,140	13,813,243	22.2	45	447	McKinley (I) --	7,035,638	50.9	271	Bryan	6,407,946	46.8	176
1900	XXVII	74,607,225	13,964,518	18.7	45	447	McKinley (II) --	7,219,530	51.7	292	Bryan	6,358,071	45.5	155
1904	XXVIII	74,607,225	13,253,519	18.7	45	476	Roosevelt	7,628,834	56.4	336	Parker	5,084,491	37.6	140
1908	XXIX	91,109,542	14,887,133	16.3	46	483	Taft	7,679,006	51.6	321	Bryan	6,400,106	43.1	162
1912	XXX	91,641,197	15,031,169	16.4	48	531	Wilson	6,286,214	41.8	435	Roosevelt	4,126,020	27.4	88

¹ Election thrown into House of Representatives; vote by state delegations.

² Election thrown into Senate; vote by Senators.

³ Breckenridge had 72 electoral votes, but was third in popular vote (847,508).

⁴ Of the 66 Greeley electors, 3 cast their votes for Greeley, though he died before the meeting of the Electoral College; the remaining 63 were distributed among four persons.

PRESIDENTIAL ELECTIONS

TABLE II. PRESIDENT AND VICE-PRESIDENT, 1788-1789

STATES	SUCCESSFUL CANDIDATES (No Parties)		MINORITY CANDIDATES (No Parties)									
	Wash- ington (Va.) (Presi- dent)	Adams (Mass.) (Vice- Presi- dent)	Jay (N. Y.)	R. H. Harrison (Md.)	Rut- ledge (S. C.)	Ham- cock (Mass.)	Hunting- ton (Conn.)	Milton (Ga.)	Arm- strong (Ga.)	Telfair (Ga.)	B. Lin- coln (Mass.)	G. Clin- ton (N. Y.)
Connecticut -----	7	5					2					
Delaware -----	3		3									
Georgia -----	5							2	1	1	1	
Maryland ³ -----	6			6								
Massachusetts -----	10	10										
New Hampshire -----	5	5										
New Jersey -----	6	1	5									
New York ¹ -----												
North Carolina ² -----												
Pennsylvania -----	10	8				2						
Rhode Island ² -----												
South Carolina -----	7				6	1						3
Virginia ³ -----	10	5	1			1						
Total -----	69	34	9	6	6	4	2	2	1	1	1	3

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT	
	In Union	Voting	Assigned	Voting	Necessary for Choice	Washington	Opponent	Adams	Opponents
	13	10	91	69	37	69	0	34 ⁴	35

¹ New York, because of a deadlock in the legislature, chose no electors.
² North Carolina and Rhode Island had not yet ratified the Constitution.
³ Two electors from Maryland and two from Virginia not voting.
⁴ Adams elected Vice-President because second in the electoral vote, a majority not being necessary.

TABLE III. PRESIDENT AND VICE-PRESIDENT, 1792 AND 1796

PRESIDENTIAL ELECTIONS

STATES	1792				1796				MINORITY CANDIDATES					
	SUCCESSFUL CANDIDATES		MINORITY CANDIDATES		SUCCESSFUL CANDIDATES		MINORITY CANDIDATES		MINORITY CANDIDATES					
	Federal	Federal	Anti-Federal	Anti-Federal	Federal	Democratic Republican	Anti-Federal	Anti-Federal	Federal	Democratic Republican	Federal	Democratic Republican	Independent Federal	Independent Federal
Connecticut	9	J. Adams (Mass.) (Vice-President)			J. Adams (Mass.) (President)	Jefferson (Va.) (Vice-President)			T. Pinckney (S. C.)					
Delaware	3													
Georgia	4													
Kentucky (1792)	4													
Maryland	8													
Massachusetts	16													
New Hampshire	6													
New Jersey	7													
New York	12													
N. Carolina	12													
Pennsylvania	15													
Rhode Island	4													
S. Carolina	4													
Ten'see (1796)	7													
Vermont (1791)	3													
Virginia	21													
Total	132	77	50	4	71	68	59	30	15	11	3	7	5	2
SUMMARY	ELECTION		STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT				
	1792	1796	In Union	Voting	Assigned	Voting	Necessary for Choice	Elected	Nearest Opponent	Elected	Opponents			
			15	15	132	132	67	Wash't'n, 132	77	Adams, 77	55			
			16	16	138 ¹	138	70	Adams, 71	68	Jefferson, 68 ²	137			

¹ The total electoral vote of 1796 is reported by Mosher and other authorities at 139: there were only 138 electors; and the vote was canvassed at 138, February 8, 1797. One elector voted for both Adams and Jefferson.

² Jefferson elected Vice-President because second in the electoral votes, a majority not being necessary.

PRESIDENTIAL ELECTIONS

TABLE IV. PRESIDENT AND VICE-PRESIDENT, 1800—1801 AND 1804

1800 ¹										1801				1804			
STATES	CHOICE OF ELECTORS						ELECTION IN HOUSE						PRESIDENT		VICE-PRESIDENT		
	HIGHEST CANDIDATES		MINORITY CANDIDATES		MEMBERS' VOTES		STATES' VOTES		PRESIDENT		VICE-PRESIDENT		PRESIDENT		VICE-PRESIDENT		
	Democ- ratic Repub- lican	Democ- ratic Repub- lican	Federal	Federal	Democ- ratic Repub- lican	Federal	Democ- ratic Repub- lican	Federal	Democ- ratic Repub- lican	Federal	Democ- ratic Repub- lican	Federal	Democ- ratic Repub- lican	Federal	Democ- ratic Repub- lican		
	Jefferson (Va.)	Burr (N.Y.)	J. Adams (Mass.)	C. C. Pinckney (S.C.)	Jefferson (Va.) (Presi- dent)	Burr (N.Y.) (Vice- Presi- dent)	Jefferson (Va.) (Presi- dent)	Burr (N.Y.) (Vice- Presi- dent)	Jefferson (Va.) (Presi- dent)	Burr (N.Y.) (Vice- Presi- dent)	Jefferson (Va.) (Presi- dent)	Burr (N.Y.) (Vice- Presi- dent)	Jefferson (Va.) (Presi- dent)	Burr (N.Y.) (Vice- Presi- dent)	G. Clinton (N.Y.)	R. King (N.Y.)	
Connecticut			9	9		7			1			9			9		
Delaware			3	3								3			3		
Georgia	4	4			1								6		6		
Kentucky	4	4			2								8		8		
Maryland	5	5			4								9	2	9	2	
Massachusetts			16	16	3	11			1				19		19		
New Hampshire			6	6									7		7		
New Jersey			7	7									8		8		
New York	12	12			3	2	1						19		19		
North Carolina	8	8	4	4	6	4	1						14		14		
Ohio (1803)					9	1							3		3		
Pennsylvania	8	8	7	7									20		20		
Rhode Island			4	3		2							4		4		
South Carolina	8	8											10		10		
Tennessee	3	3			1								5		5		
Vermont			4	4	1								6		6		
Virginia	21	21			16	3							24		24		
Total	73 ¹	73 ¹	65	64	55	38	10	4					162	14	162	14	

SUMMARY	ELECTION	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT	
		In Union	Voting	Assigned	Voting	Necessary for Choice	Elected	Opponent	Elected	Opponents
	1800 ¹	16	16	138	138	70	Jefferson, 73 ¹	73	Burr, 73 ³	130
	1801 (House)	16	16 ⁴			9 ²	Jefferson, 10 ²	4	Burr ³	
1804		17	17	176	176	89	Jefferson, 162	14	G. Clinton, 162	14

¹ The two highest candidates being tied, there was no election in 1800.

² Jefferson elected President by vote of state delegations in the House.

³ Burr, on the final election of Jefferson automatically became Vice-President, as the Constitution then stood.

⁴ Delaware and South Carolina cast blank votes.

TABLE V. PRESIDENT AND VICE-PRESIDENT, 1808 AND 1812

STATES	1808						1812			
	PRESIDENT			VICE-PRESIDENT			PRESIDENT		VICE-PRESIDENT	
	Federal	Democrat- ic Repub- lican	Independ- ent Repub- lican	Federal	Democrat- ic Repub- lican	Independ- ent Repub- lican	Fusion	Democrat- ic Repub- lican	Fusion	Democrat- ic Repub- lican
	C. C. Pinckney (S. C.)	Madison (Va.)	G. Clinton (N. Y.)	R. King (N. Y.)	G. Clinton (N. Y.)		De W. Clinton (N. Y.)	Madison (Va.)	Ingersoll (Pa.)	Gerry (Mass.)
Connecticut	9			9			9		9	
Delaware	3			3			4		4	
Georgia		6				6		8		8
Kentucky		7				7		12		12
Louisiana (1812)				Not yet admitted				3		3
Maryland	2	9		2			5	6	5	6
Massachusetts	19			19			22		20	2
New Hampshire	7			7			8		7	1
New Jersey		8					3		8	
New York		13	6			3	29		29	
North Carolina	3	11		3				15		15
Ohio		3						7		7
Pennsylvania		20						25		25
Rhode Island	4			4			4		4	
South Carolina		10						11		11
Tennessee		5						8		8
Vermont		6				6		8		8
Virginia		24				24		25		25
Total	47	122	6	47	113	9	89	128	86	131
SUMMARY	ELECTION	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT	
		In Union	Voting	Assigned	Voting	Necessary for Choice	Elected	Opponent	Elected	Opponents
	1808	17	17	176	175 ¹	89	Madison, 122	53	G. Clinton, 113	62
	1812	18	18	218	217 ²	110	Madison, 128	89	Gerry, 131	86

¹ One elector from Kentucky not voting.

² One elector from Ohio not voting.

PRESIDENTIAL ELECTIONS

TABLE VI. PRESIDENT AND VICE-PRESIDENT, 1816 AND 1820

1816										1820												
STATES	PRESIDENT					VICE-PRESIDENT					PRESIDENT					VICE-PRESIDENT						
	Federal	Repub- lican	Federal	Repub- lican	Inde- pendent Federal	Inde- pendent Federal	Inde- pendent Federal	Repub- lican	Tomp- kins (N. Y.)	Ross (Pa.)	Inde- pendent Federal	Inde- pendent Federal	Repub- lican	Inde- pendent Repub- lican	Inde- pendent Repub- lican	Repub- lican	Tomp- kins (N. Y.)	Stockton (N. J.)	Inde- pendent	Inde- pendent	Inde- pendent	
Alabama (1819)									Not yet admitted	5							3					
Connecticut	9																9					
Delaware	3																4					
Georgia		8																				
Illinois (1818)									Not yet admitted													
Indiana (1816)		3															9					
Kentucky		12															12					
Louisiana		3															3					
Maine (1820)									Not yet admitted								3					
Maryland		8															10					
Massachusetts	22																7					
Mississippi (1817)									Not yet admitted								2					
Missouri (1821)									Not yet admitted								3					
New Hampshire		8															7					
New Jersey		8															8					
New York		29															29					
North Carolina		15															15					
Ohio		8															8					
Pennsylvania		25															24					
Rhode Island		4															4					
South Carolina		11															11					
Tennessee		8															7					
Vermont		8															8					
Virginia		25															25					
Total	34	183	22	183	5	3	4	3					231	1	8	4	218	8	4	1	1	1
SUMMARY																						
ELECTION		STATES		ELECTORS		PRESIDENT		VICE-PRESIDENT		PRESIDENT		VICE-PRESIDENT		PRESIDENT		VICE-PRESIDENT		PRESIDENT		VICE-PRESIDENT		
1816		19		19		221		217 ¹		111		183		34		183		34		34		
1820		21		24		235		232 ²		118		231		1		218		1		14		

¹ One elector from Delaware, and 3 from Maryland not voting.² Missouri counted in the alternative.³ One elector each from Mississippi, Pennsylvania and Tennessee not voting.

PRESIDENTIAL ELECTIONS

TABLE VII. PRESIDENT, 1824

STATES	VOTE CAST			J. Q. ADAMS (Mass.) (No Party)			JACKSON (Tenn.) (No Party)			CRAWFORD (Ga.) (Chaucus)			CLAY (Ky.) (No Party)		
	Population (1820)	Popular Vote	Per Cent of Popu- lation	Popular Vote	Per Cent of Total	Elec- toral Vote	Popular Vote	Per Cent of Total	Elec- toral Vote	Popular Vote	Per Cent of Total	Elec- toral Vote	Popular Vote	Per Cent of Total	Elec- toral Vote
Alabama	127,901	13,606	10.6	2,416	17.8	---	9,443	69.4	5	1,680	12.3	---	67	0.5	---
Connecticut	275,248	9,565	3.4	7,587	79.3	8	---	---	---	1,978	29.7	---	---	---	---
Delaware	---	Legislature	---	---	---	1	---	---	---	---	---	2	---	---	---
Georgia	---	Legislature	---	---	---	---	---	---	---	---	---	9	---	---	---
Illinois	55,211	4,709	8.5	1,542	32.7	1	1,901	40.4	2	219	4.7	---	1,047	22.2	---
Indiana	147,178	15,753	10.7	3,095	19.7	---	7,343	46.6	5	---	---	---	5,315	33.7	---
Kentucky	564,317	23,235	4.1	---	---	---	6,453	27.7	---	---	---	---	16,782	72.2	14
Louisiana	---	Legislature	---	---	---	2	---	---	3	---	---	---	---	---	---
Maine	298,335	9,200	3.09	6,870	74.5	9	2,330	25.5	---	---	---	---	---	---	---
Maryland	407,350	33,496	8.2	14,632	43.7	3	14,523	43.3	7	3,616	10.9	1	685	2.1	---
Massachusetts	523,287	37,303	7.1	30,687	82.3	15	---	---	---	6,616	17.7	---	---	---	---
Mississippi	75,448	5,047	6.6	1,694	33.6	---	3,234	64.1	3	119	2.3	---	---	---	---
Missouri	66,586	2,699	4.0	311	11.5	---	987	36.6	---	---	---	---	---	---	3
New Hampshire	244,161	4,750	1.9	4,107	86.5	8	643	13.5	---	---	---	---	1,401	51.9	---
New Jersey	277,575	21,291	7.6	9,110	42.8	---	10,985	51.6	8	1,196	5.6	---	---	---	---
New York	---	Legislature	---	---	---	26	---	---	1	---	---	5	---	---	4
North Carolina	638,829	36,036	5.6	---	---	---	20,415	56.7	15	15,621	43.3	---	---	---	---
Ohio	581,434	49,992	8.5	12,280	24.6	---	18,457	36.9	---	---	---	---	19,255	38.5	16
Pennsylvania	1,049,458	47,355	4.5	5,440	11.5	---	36,100	76.2	28	4,206	8.9	---	1,609	3.4	---
Rhode Island	83,059	2,345	2.8	2,145	91.5	4	---	---	---	200	8.5	---	---	---	---
South Carolina	---	Legislature	---	---	---	---	---	---	11	---	---	---	---	---	---
Tennessee	422,823	20,725	4.9	216	1.0	---	20,197	97.5	11	312	1.5	---	---	---	---
Vermont	---	Legislature	---	---	---	7	---	---	---	---	---	---	---	---	---
Virginia	1,065,366	14,955	1.4	3,189	21.3	---	2,861	19.1	---	8,489	56.8	24	416	2.8	---
Total	6,903,566	352,062	5.1	105,321	29.8	84	155,872	44.3	99	44,282	12.5	41	46,587	13.3	37

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT ²			POPULAR VOTE			
	In Union	Voting	Assigned	Voting	Neces- sary for Choice	Jackson	Oppo- nents	Calhoun	Oppo- nents	Total	Jackson	Nearest Oppo- nent	All Oppo- nents	Minority
	24	24	261	261	131	99 ¹	162	182	79	352,062	155,872	105,321	196,160	40,288

¹ No candidate having a majority of electoral votes for President, there was no election. For the election of 1825 see Table VIII.² For the vice-presidential election of 1824 see Table IX.

TABLE VIII. PRESIDENT, 1825 (House of Representatives) and 1828

STATES	1825										1828									
	(Election in House)										JACKSONIAN									
											NATIONAL REPUBLICAN					JACKSON (Tenn.)				
	J.Q.Adams (Mass.) (No Party)	Jackson (Tenn.) (No Party)	Crawford (Cal.) (Caucus)	Vote of States	Popula- tion (1830)	Popular Vote	Per Cent of Popula- tion	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote
Alabama	---	3	---	Jackson	309,527	19,076	6.1	---	10.2	---	1,938	---	---	17,138	89.8	---	---	---	5	---
Connecticut	6	---	---	Adams	297,675	18,277	6.1	---	75.6	8	13,829	---	---	4,418	21.3	---	---	---	---	---
Delaware	---	---	1	Crawford	76,748	9,118	11.1	---	5.2	3	4,769	---	---	4,319	47.6	---	---	---	---	---
Georgia	---	1	7	Adams	516,823	18,709	3.6	---	---	---	---	---	---	18,709	100.0	---	---	---	9	---
Illinois	---	---	---	Jackson	157,445	8,334	5.2	---	18.9	---	1,581	---	---	6,763	81.1	---	---	---	3	---
Indiana	1	3	---	Jackson	343,031	39,289	11.1	---	43.4	---	17,052	---	---	22,237	56.6	---	---	---	5	---
Kentucky	8	4	---	Adams	687,917	70,256	10.2	---	44.3	---	31,172	---	---	39,084	55.6	---	---	---	14	---
Louisiana	2	1	---	Adams	215,739	8,702	4.0	---	47.0	---	4,097	---	---	4,605	52.9	---	---	---	5	---
Maine	7	---	---	Adams	399,455	34,700	8.6	---	59.8	---	20,773	---	8	13,927	40.1	---	---	---	1	---
Maryland	5	3	1	Adams	447,040	50,937	11.2	---	51.1	6	25,759	---	6	24,578	48.8	---	---	---	5	---
Massachusetts	12	---	---	Adams	610,408	35,855	5.8	---	83.2	15	29,836	---	15	6,019	16.7	---	---	---	---	---
Mississippi	---	1	---	Jackson	136,621	8,344	6.1	---	18.9	---	1,581	---	---	6,763	81.1	---	---	---	3	---
Missouri	1	---	---	Adams	140,455	11,654	8.0	---	29.3	---	3,422	---	---	8,232	70.6	---	---	---	3	---
New Hampshire	6	---	---	Jackson	269,328	44,768	16.6	---	53.5	---	24,076	---	---	20,692	46.2	---	---	---	---	---
New Jersey	1	---	---	Adams	320,823	45,708	14.2	---	51.9	8	23,758	---	8	21,950	48.0	---	---	---	20	---
New York	18	2	14	Jackson	1,918,608	276,176	14.3	---	49.0	16	135,413	---	16	140,763	51.0	---	---	---	15	---
North Carolina	1	2	10	Adams	737,987	51,775	7.0	---	26.8	---	13,918	---	---	37,557	73.0	---	---	---	16	---
Ohio	10	2	2	Crawford	937,903	130,993	13.9	---	48.4	---	63,396	---	---	67,597	51.6	---	---	---	28	---
Pennsylvania	1	25	---	Jackson	1,348,233	152,500	11.3	---	33.3	---	50,848	---	4	101,652	66.7	---	---	---	---	---
Rhode Island	2	---	---	Adams	97,199	3,575	3.6	---	77.0	---	2,754	---	---	821	23.0	---	---	---	11	---
South Carolina	---	9	---	Jackson	681,904	46,330	6.7	---	4.8	---	2,240	---	---	44,090	95.1	---	---	---	11	---
Tennessee	---	9	---	Adams	280,652	32,989	11.9	---	75.1	---	24,784	---	7	8,205	21.8	---	---	---	---	---
Vermont	5	---	---	Crawford	1,211,405	38,853	3.2	---	31.1	---	12,101	---	---	26,752	68.9	---	---	---	24	---
Virginia	1	1	19	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---	---
Total	87	71	54	1	12,142,926	1,156,368	9.5	---	41.0	83	509,097	---	83	647,231	55.9	---	---	---	178	---

POPULAR VOTE, 1828

VICE-PRESIDENT²
1828

PRESIDENT

ELECTORS

STATES

SUMMARY

ELECTION	In Union		Voting	Assigned	Voting	Neces- sary for Choice	Elected	Oppo- nents	Cal- houn	Oppo- nents	Total	Jackson	Nearest Oppo- nent	All Oppo- nents	Plurality	Majority
1825 (House)	24		24			13	J. Q. Adams ¹	11								
1828	24		24	261	261	131	Jackson--178	83	171	90	1,156,368	647,231	509,097	509,097	138,134	138,134

¹ Thirteen states for J. Q. Adams; seven for Jackson; four for Crawford.

² For the vice-presidential elections of 1824 and 1828 see Table IX.

PRESIDENTIAL ELECTIONS

TABLE IX. VICE-PRESIDENT, 1824-1836

STATES	1824					1828		1832				1836						
	NO PARTIES					Jack-sonian	National Repub-lican	Inde-pend-ent	Jack-sonian	National Repub-lican	Inde-pend-ent Demo-crats	Anti-Mason	Inde-pend-ent Demo-cratic	Whig	Inde-pend-ent Whig	Inde-pend-ent Demo-cratic		
	Cal-houn (S.C.)	Sanford (N.Y.)	Macon (N.C.)	Jackson (Tenn)	Van Buren (N.Y.)	Clay (Ky.)	Cal-houn (S.C.)	Rush (Pa.)	Smith (S.C.)	Van Buren (N.Y.)	Sergeant (Pa.)	Wilkins (Pa.)	Ell-maker (Pa.)	Lee (Mass.)	R. M. Johnson (Ky.)	Granger (N.Y.)	Tyler (Va.)	Smith (Ala.)
Alabama	5						5			7					7			
Ark. (1836)							Not yet	admitted							3			
Connecticut	1			8		2		8			8				8	3		
Delaware					9			3	7		3					3	11	
Georgia	3						2											
Illinois	5						3			5					5			
Indiana	7						5			9						9		
Kentucky	5	7					14				15					15		
Louisiana	5						5			5					5			
Maine	9						1	8		10					10		10	
Maryland	10			1			5	6		3	5					14		
Massachusetts	15						Not yet	15			14							
Mich. (1837)							Not yet	admitted							[3 6]			
Mississippi	3						3			4					4			
Missouri				3			3			4					4			
N. Hampshire	7			1				8		7					7	8		
New Jersey	8							8		8								
New York	29	7					20	16		42					42			
North Carolina	15						15			15					15			
Ohio		16					16			21						21		
Pennsylvania	28						28				30				30			
Rhode Island	3							4			4				4			
South Carolina	11						11							11			11	
Tennessee	11						11			15							15	
Vermont								7					7					
Virginia	7		24				24			23						7		
Total	182	30	24	13	9	2	171	83	7	189	43	30	7	11	147 3	77	47	23
VICE-PRESIDENT																		
PRESIDENT																		
POPULAR VOTE																		
For presidential popular vote, 1824 to 1836, see Tables VII, VIII, X, XI.																		

For presidential popular vote, 1824 to 1836, see Tables VII, VIII, X, XI.

1 One elector from Rhode Island not voting.
2 Two electors from Maryland not voting.
3 No majority for Vice-President, therefore no election.
4 Three Senators not voting.
5 Michigan counted in the alternative.

PRESIDENTIAL ELECTIONS

TABLE X. PRESIDENT, 1832

STATES	VOTE CAST		NATIONAL REPUBLICAN		JACKSONIAN		ANTI-MASON	IND. DEM.				
	Popu- lation (1830)	Popular Vote	Per Cent of Popu- lation	Clay (Ky.)		Jackson (Tenn.)	Wirt (Md.)	Floyd (Va.)				
				Popular Vote ^a	Per Cent of Total				Electoral Vote	Electoral Vote		
Alabama	297,675	29,024	9.7	Legislature ^b		7						
Connecticut	76,748	8,386	10.9	61.2	38.8							
Delaware	516,823	20,750	4.0	51.0	49.0	11						
Georgia	157,445	19,576	12.4		72.3	5						
Illinois	343,031	47,024	13.7	27.7	67.1	9						
Indiana	687,917	79,643	11.5	32.9	31,552							
Kentucky	215,739	6,577	3.0	54.5	36,247	5						
Louisiana	399,455	60,495	15.1	38.4	4,049	10						
Maine	447,040	38,316	8.5	45.0	33,291	3						
Maryland	610,408	47,548	7.7	50.0	19,156							
Massachusetts	136,621	5,919	4.3	69.4	14,545	4						
Mississippi	140,455	5,192 ⁴	3.6		5,919	4						
Missouri	269,328	44,496	16.5		5,192	7						
New Hampshire	320,823	47,249	14.7	42.7	25,486	8						
New Jersey	1,918,608	323,393	16.8	49.5	23,856	42						
New York	737,987	29,425	3.9	47.9	168,497	15						
North Carolina	937,903	157,785	16.8	15.5	24,862	21						
Ohio	1,348,233	147,699	10.9	48.5	81,246	30						
Pennsylvania	97,199	4,936	5.0	38.4	90,983			11				
Rhode Island				56.9	2,126	43.1						
South Carolina	681,904	30,176	4.4	Legislature		15						
Tennessee	280,652	19,022	6.7	4.8	28,740							
Vermont	1,211,405	45,060	3.7	5.1	7,870	7						
Virginia				25.4	33,609	23						
Total	11,833,399	1,217,691	10.2	43.5	687,502	219	7 ³	11				
POPULAR VOTE												
SUMMARY	ELECTORS		PRESIDENT		VICE-PRESIDENT ²		POPULAR VOTE					
	Assigned	Voting	Neces- sary for Choice	Jackson	Oppo- nents	Van Buren	Oppo- nents	Total				
									Jackson	Nearest Oppo- nent	All Oppo- nents	Plurality
	288	286 ¹	145	219	67	189	97	1,217,691	687,502	530,189	157,413	157,413

TABLE XI. PRESIDENT, 1836

PRESIDENTIAL ELECTIONS

STATES	VOTE CAST			WHIG		DEMOCRATIC			WHIG			WHIG			INDEP.
	W. H. Harrison (Ohio)			Van Buren (N. Y.)			Webster (Mass.)			White (Tenn.)					
	Popula- tion (1830)	Popular Vote	Per Cent of Popula- tion	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote			
Alabama	309,527	34,705	11.2				19,068	54.9	7				15,637	45.0	
Arkansas (1836)	30,388	3,638	11.9				2,400	65.9	3				1,238	34.0	
Connecticut	297,675	37,700	12.6	18,466	48.9		19,234	51.0	8						
Delaware	76,748	8,893	11.5	4,738	53.2	3	4,155	46.7							
Georgia	516,823	47,056	9.1				22,126	47.0					24,930	52.9	11
Illinois	157,445	33,080	21.0	14,983	45.2		18,097	54.7	5						
Indiana	343,031	73,761	21.5	41,281	55.8	9	32,480	44.4							
Kentucky	687,917	70,390	10.2	36,955	52.5	15	33,435	47.4					3,383	48.0	
Louisiana	215,739	7,036	3.2				3,653	51.9	5						
Maine	399,455	37,539	9.3	15,239	40.5		22,300	59.5	10						
Maryland	447,040	48,019	10.7	25,852	53.8	10	22,167	46.1							
Massachusetts	610,408	74,594	12.2				33,501	44.9		14					
Michigan (1837)	31,639	11,360	36.0	4,000	35.2		7,360	64.7	3 ¹						
Mississippi	136,621	19,667	14.3				9,979	50.7	4				9,688	49.3	
Missouri	140,455	19,332	13.7				10,995	56.8	4				8,337	43.1	
New Hampshire	269,328	24,950	9.2	6,228	24.9		18,722	75.0	7						
New Jersey	320,823	53,239	16.5	26,892	50.5	8	26,347	49.5							
New York	1,918,608	305,358	15.9	138,543	45.4		166,815	54.6					23,626	46.8	
North Carolina	737,987	50,336	6.8				26,910	53.2	42						
Ohio	937,903	202,353	21.5	105,405	52.1	21	96,948	47.9	15						
Pennsylvania	1,348,233	178,586	13.2	87,111	48.7	30	91,475	51.2	30						
Rhode Island	97,199	5,674	5.8	2,710	47.7	4	2,964	52.2	4						
South Carolina							Legislature								11
Tennessee	681,904	62,082	9.1				26,120	42.0					35,962	57.9	15
Vermont	280,652	35,028	12.4	20,991	59.9	7	14,037	40.0							
Virginia	1,211,405	53,629	4.4				30,261	56.4	23				23,368	43.5	
Total	12,204,953	1,498,205	12.3	549,394	36.6	73	761,549	50.8	170	41,093	2.7	14	146,169	9.7	26

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT ²			POPULAR VOTE				
	In Union	Voting	Assigned	Voting	Neces- sary for Choice	Van Buren	Oppo- nents	John- son	Oppo- nents	Total	Van Buren	Nearest Oppo- nent	All Oppo- nents	Plurality	Majority
	26	26	204	294	148	170	124 ¹	147	147	1,498,205	761,549	549,394	736,656	212,155	24,893

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT ²		POPULAR VOTE					
	In Union	Voting	Assigned	Voting	Necessary for Choice	Van Buren	Opponents	Johnson	Opponents	Total	Van Buren	Nearest Opponent	All Opponents	Plurality	Majority
26	26	294	294	148	170	124 ¹	147	147	1,498,205	761,549	549,394	736,656	212,155	24,893	

¹ Michigan electoral vote counted in the alternative.
² For vice-presidential election of 1836-1837 see Table IX.

TABLE XII. PRESIDENT AND VICE-PRESIDENT, 1840

STATES	VOTE CAST				PRESIDENT				VICE-PRESIDENT				LIBERTY				VICE-PRESIDENT (Electoral Votes)					
	Popula- tion (1840)	Popular Vote	Per Cent of Popula- tion	W. H. Harrison (Ohio)	DEMOCRATIC			Birney (N. Y.)	Per Cent of Total	Popular Vote	Electoral	Van Buren (N. Y.)	Per Cent of Total	Popular Vote	Electoral	Per Cent of Total	Tyler (Va.)	Johnson (Ky.)	Tazewell (Va.)	Polk (Tenn.)	LIBERTY	
					Popular Vote	Per Cent of Total	Electoral															
Alabama	590,756	62,462	10.5					45.6	28,471					33,991		54.4		7				
Arkansas	97,574	11,209	11.4					46.0	5,160					6,049		53.9		3				
Connecticut	309,978	57,071	18.4					55.3	31,601		8			25,296		44.3		8				
Delaware	78,085	10,851	13.9					54.9	5,967		3			4,884		45.0		3				
Georgia	691,392	72,194	10.4					55.7	40,261		11			31,933		44.2		11				
Illinois	476,183	93,162	19.5					48.8	45,537					47,476		50.9		5				
Indiana	685,866	116,997	17.1					55.8	65,392		9			51,695		44.1		9				
Kentucky	779,828	91,105	11.6					64.2	58,489		15			32,616		35.8		15				
Louisiana	352,411	18,914	5.3					59.7	11,297		5			7,617		40.3		5				
Maine	501,793	93,007	18.5					50.1	46,612		10			46,201		49.7		10				
Maryland	470,019	62,280	13.2					53.8	33,528		10			28,752		46.1		10				
Massachusetts	737,699	126,443	17.1					57.6	51,948		14			51,948		41.0		14				
Michigan	212,297	44,352	20.8					51.7	22,933		3			21,098		47.5		3				
Mississippi	375,651	36,513	9.7					53.5	19,518		4			16,995		45.4		4				
Missouri	383,702	52,732	13.7					43.5	22,972					29,760		56.4		4				
New Hampshire	281,574	58,954	20.7					44.3	26,158					32,670		55.4		7				
New Jersey	373,306	64,454	17.2					51.7	33,351		8			31,034		48.1		8				
New York	2,428,921	441,134	18.1					51.1	225,817		42			212,519		48.1		42				
North Carolina	753,419	80,594	10.6					57.5	46,376		15			34,218		42.4		15				
Ohio	1,519,467	273,852	18.0					54.1	148,157		21			124,782		45.5		21				
Pennsylvania	1,724,633	288,049	16.7					50.0	144,021		30			143,676		49.8		30				
Rhode Island	108,830	8,621	7.9					61.2	5,278		4			3,301		38.3		4				
South Carolina				Legislature														11				
Tennessee	829,210	108,680	13.1					55.6	60,391		15			48,289		44.4		15				
Vermont	291,948	50,773	17.3					63.9	32,445		7			18,019		35.5		7				
Virginia	1,239,797	86,394	6.9					49.1	42,501					43,893		50.8		22		1		
Total	16,296,709	2,410,778	14.7					52.8	1,275,017		234			1,128,702		46.8		234		48	1	
				ELECTORS				PRESIDENT				VICE-PRESIDENT				POPULAR VOTE						
In Union	26	294	294	Voting	Assigned			Neces- sary for Choice	W. H. Harris- son	Oppo- nents	TYLER ¹		Oppo- nents	Total	Harris- son	Nearest Oppo- nent	All Oppo- nents	Plurality	Majority			
									234	60	234		60	2,410,778	1,275,017	1,128,702	1,135,761	146,315	139,256			

TABLE XIII. PRESIDENT AND VICE-PRESIDENT, 1844

PRESIDENTIAL ELECTIONS

STATES	VOTE CAST			WHIG			DEMOCRATIC			LIBERTY	
	Popu-lation (1840)	Popular Vote	Per Cent of Popu-lation	Clay (Ky.)	and Freelinghuyssen (N. J.)		Popular Vote	Polk (Tenn.)		Electoral Vote	Dallas (Pa.)
					Per Cent of Total	Electoral Vote		Per Cent of Total	Electoral Vote		
Alabama	590,756	63,824	10.8	26,084	40.9	---	37,740	59.1	9	---	---
Arkansas	97,574	15,050	15.4	5,504	36.6	---	9,546	63.4	3	---	---
Connecticut	309,978	64,616	20.8	32,832	50.8	6	29,841	46.2	---	1,943	3.0
Delaware	78,085	12,724	15.6	6,728	54.8	3	5,996	48.8	---	---	---
Georgia	691,392	86,283	12.4	42,106	48.8	---	44,177	51.2	10	---	---
Illinois	476,183	107,018	22.4	45,528	42.6	---	57,920	54.1	9	3,570	3.3
Indiana	685,866	140,154	20.4	67,897	48.4	---	70,181	50.1	12	2,106	1.5
Kentucky	779,828	113,243	14.5	61,255	54.0	12	51,988	45.9	---	---	---
Louisiana	352,411	26,865	7.6	13,083	48.7	---	13,782	51.3	6	---	---
Maine	501,793	84,933	16.9	34,378	40.5	---	45,719	53.8	9	4,836	5.7
Maryland	470,019	68,660	14.6	35,984	52.4	8	32,676	47.6	---	---	---
Massachusetts	737,699	131,124	17.7	67,418	51.2	12	52,846	40.5	---	10,860	8.2
Michigan	212,267	55,728	26.2	24,337	43.6	---	27,759	49.8	5	3,632	6.5
Mississippi	375,651	44,332	11.8	19,206	43.3	---	25,126	56.7	6	---	---
Missouri	383,702	72,620	18.9	31,251	43.0	---	41,369	57.0	7	---	---
New Hampshire	284,574	50,187	17.2	18,866	38.3	---	27,160	55.2	6	4,161	8.5
New Jersey	373,306	75,944	20.3	38,318	50.4	7	37,495	49.4	---	131	0.2
New York	2,428,921	485,882	20.0	232,482	47.8	---	237,588	48.9	36 ¹	15,812 ¹	3.3
North Carolina	753,419	82,519	10.9	43,232	52.4	11	39,287	47.6	---	---	---
Ohio	1,519,467	312,224	20.5	155,057	49.7	23	149,117	47.7	---	---	---
Pennsylvania	1,724,033	331,876	19.2	161,293	48.6	---	167,535	50.5	26	8,050	2.6
Rhode Island	108,830	12,296	11.2	7,322	59.5	4	4,867	39.6	---	3,138	0.9
South Carolina	---	---	---	Legislature	---	---	---	---	9	107	0.9
Tennessee	829,210	119,947	14.4	60,030	50.0	13	59,917	50.0	---	---	---
Vermont	291,948	48,765	16.7	26,770	54.9	6	18,041	37.0	---	3,951	8.1
Virginia	1,239,797	93,247	7.5	43,677	46.8	---	49,570	53.2	17	---	---
Total	16,296,709	2,700,061	16.6	1,300,518	48.1	105	1,337,243	49.3	170	62,300	2.3

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT			POPULAR VOTE			
	In Union	Voting	Assigned	Voting	Neces-sary for Choice	Polk	Oppo-nents	Dallas	Oppo-nents	Total	Polk	Nearest Oppo-nent	All Oppo-nents	Minor-ity
	26	26	275	275	138	170	105	170	105	2,700,061	1,337,243	1,300,518	1,362,818	25,575

¹ The Liberty vote in New York, mostly withdrawn from Clay, turned the vote of New York to Polk.

PRESIDENTIAL ELECTIONS

TABLE XIV. PRESIDENT AND VICE-PRESIDENT, 1848

STATES	VOTE CAST			WHIG			DEMOCRATIC			FREE SOIL		
	Popu- lation (1850)	Popular Vote	Per Cent of Popu- lation	Taylor and Fillmore (Cal.) (N. Y.)		Electoral Vote	Cass and Butler (Mich.) (Ky.)		Electoral Vote	Van Buren and Adams (N. Y.) (Mass.)		
				Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total	Popular Vote
Alabama	771,623	61,845	8.0	30,482	49.3		31,363	50.7				
Arkansas	269,897	7,588	8.0	7,588	44.9		9,300	55.1				
California	230,792	62,365	16.8	30,314	48.6	6	27,046	43.4	3	5,005	8.0	
Connecticut	91,532	12,399	13.5	6,421	51.8	3	5,898	47.6		80	0.6	
Delaware	87,445	4,963	5.6	3,116	62.7	3	1,847	37.2				
Florida (1845)	96,445	92,346	10.1	47,544	51.5	10	44,802	48.5				
Georgia	851,470	125,121	14.6	53,047	42.4		56,300	45.0	9	15,774	12.6	
Illinois	988,416	152,752	15.4	69,907	45.8		74,745	48.9	12	8,100	5.3	
Indiana	192,214	21,303	12.6	11,084	45.6		12,093	49.8	4	1,126	4.6	
Iowa (1846)	982,405	116,861	15.5	67,141	51.5	12	49,720	57.4				
Kentucky	517,762	33,587	6.4	18,217	54.2	6	15,370	45.8				
Louisiana	583,169	87,101	14.9	35,125	40.3		39,880	45.8	9	12,096	13.9	
Maine	583,034	72,355	12.4	37,702	52.1	8	34,528	47.7		125	0.2	
Maryland	994,514	134,411 ¹	13.5	(61,072)	45.4	12 ¹	(35,281)	26.3		(38,058)	28.3	
Massachusetts	397,654	65,016	16.3	23,940	36.8		30,687	47.2	5	10,389	16.0	
Michigan	606,526	52,459	8.6	25,922	49.4		26,537	50.6	6			
Mississippi	682,044	72,748	10.6	32,671	29.5		40,077	55.1	7			
Missouri	317,976	50,104	15.7	14,781	55.4		27,763	55.4	6	7,560	15.1	
New Hampshire	429,555	77,745	18.8	40,015	51.5	7	36,901	47.5		829	1.0	
New Jersey	3,097,394	453,431	14.5	218,603	48.2	36 ²	114,318	34.3		120,510	36.2	
New York	869,039	78,419	9.0	43,550	55.5	11	34,869	44.4			0.1	
North Carolina	1,900,329	328,489	16.5	138,360	42.1		154,775	47.1	23	35,354	10.8	
Ohio	2,311,786	367,352	15.9	185,513	50.4	26	171,176	46.5		11,263	3.1	
Pennsylvania	1,175,445	111,155	7.5	6,779	60.8	4	3,646	32.7		730	6.5	
Rhode Island				Legislature					9			
South Carolina				64,705	52.5	13	58,419	47.4				
Tennessee	1,002,717	153,124	12.2	4,509	29.7		10,668	70.2	4			
Texas (1845)			7.1	23,122	48.3	6	10,948	22.8		13,837	28.9	
Vermont	314,120	47,907	15.2	45,124	49.2		46,586	50.8	17	9		
Virginia	1,421,661	91,719	6.4	13,747	35.2		15,001	38.3		10,418	26.4	
Wisconsin (1848)	395,391	39,166	12.8						4			
Total	22,286,787	2,871,908	12.8	1,360,101	47.3	163	1,220,544	42.5	127	291,263	10.1	
											0	

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT		POPULAR VOTE					
	In Union	Voting	Assigned	Voting	Necessary for Choice	Taylor	Opponents	Fillmore ³	Opponents	Total	Taylor	Nearest Opponent	All Opponents	Plurality	Minority
	30	30	290	290	146	163	127	163	127	2,871,908	1,360,101	1,220,544	1,511,807	139,557	151,706

¹Massachusetts required a majority of the popular vote; there being no such majority, the electors were chosen by the legislature.

² The Free Soil vote in New York, mostly withdrawn from Cass, turned the election to Taylor.

On July 9, 1850, by the death of Taylor, Fillmore became President.

TABLE XV. PRESIDENT AND VICE-PRESIDENT, 1852

PRESIDENTIAL ELECTIONS

STATES	VOTE CAST			WHIG			DEMOCRATIC			FREE DEMOCRATS		
	Popu- lation (1850)	Popular Vote	Per Cent of Popu- lation	Scott and Graham (N. J.)		Electoral Vote	Pierce and W. R. King (N. H.)		Electoral Vote	Hale and Julian (N. H.)		Electoral Vote
				Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total	
Alabama	771,623	41,919	5.4	15,038	35.9	---	26,881	64.1	9	---	---	---
Arkansas	209,897	19,577	9.3	7,404	37.8	---	12,173	62.2	4	---	---	---
California (1850)	92,597	76,133	82.2	35,407	46.6	---	40,626	53.3	4	100	0.1	---
Connecticut	370,792	66,766	18.0	30,357	45.5	---	33,249	49.8	6	3,169	4.7	---
Delaware	91,532	12,673	13.8	6,293	49.7	---	6,318	49.8	3	62	0.5	---
Florida	87,445	7,193	8.2	2,875	40.0	---	4,318	60.0	3	---	---	---
Georgia	906,185	51,365	5.6	16,660	32.4	---	34,705	67.6	10	---	---	---
Illinois	851,470	155,497	18.2	64,934	41.8	---	80,597	51.8	11	9,966	6.4	---
Indiana	988,416	183,170	18.5	80,901	44.2	---	95,340	52.0	13	6,329	3.7	---
Iowa	192,214	35,223	18.3	15,856	45.0	12	17,763	50.4	4	1,604	4.5	---
Kentucky	982,405	111,139	11.3	57,068	51.4	---	53,806	48.4	---	265	0.2	---
Louisiana	517,762	35,902	6.9	17,255	48.1	---	18,647	51.9	6	---	---	---
Maine	583,169	82,182	14.0	32,543	39.6	---	41,609	50.6	8	8,030	9.8	---
Maryland	583,034	75,140	12.8	35,066	46.7	---	40,020	53.2	8	54	0.1	---
Massachusetts	994,514	125,275	12.5	52,683	42.0	13	44,569	35.5	---	28,023	22.3	---
Michigan	397,654	82,938	20.8	33,859	40.2	---	41,842	50.4	6	7,237	8.7	---
Mississippi	606,526	44,424	7.3	17,548	39.5	---	26,876	60.5	7	---	---	---
Missouri	682,044	63,337	11.7	29,984	43.9	---	38,353	56.1	9	---	---	---
New Hampshire	317,976	52,839	16.6	16,147	30.6	---	29,997	56.7	5	6,695	12.6	---
New Jersey	489,555	83,211	16.9	38,566	46.3	---	44,305	53.3	7	350	0.4	---
New York	3,097,394	522,294	16.8	234,882	45.0	---	262,083	50.2	35	25,329	4.8	---
North Carolina	869,039	78,861	9.0	39,058	49.5	---	39,744	50.4	10	59	0.1	---
Ohio	1,980,329	353,428	17.8	152,526	43.2	---	169,220	47.8	23	31,682	9.0	---
Pennsylvania	2,311,786	386,267	16.7	179,174	46.3	---	198,568	51.4	27	8,525	2.2	---
Rhode Island	147,545	17,005	11.5	7,626	44.8	---	8,735	51.3	4	644	3.8	---
South Carolina	---	---	---	Legislature	---	---	---	---	---	---	---	---
Tennessee	1,002,717	115,916	11.5	58,898	50.8	12	57,018	49.2	---	---	---	---
Texas	212,592	18,547	8.7	4,995	26.9	---	13,552	73.1	4	---	---	---
Vermont	314,120	43,838	13.9	22,173	50.6	5	13,044	29.7	---	8,621	19.6	---
Virginia	1,421,661	132,430	9.3	58,572	44.2	---	73,858	55.7	15	---	---	---
Wisconsin	305,391	64,712	21.1	22,240	34.4	---	33,658	52.0	5	8,814	13.6	---
Total	22,379,384	3,144,201	13.5	1,386,578	44.0	42	1,601,474	50.9	254	156,149	4.9	0

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT		POPULAR VOTE			
	In Union	Voting	Assigned	Voting	Neces- sary for Choice	Pierce	Oppo- nents	King	Oppo- nents	Total	Pierce	Nearest Oppo- nent	All Oppo- nents
	31	31	296	296	149	254	42	254	42	3,144,201	1,601,474	1,386,578	1,542,727
													214,896
													58,747

PRESIDENTIAL ELECTIONS

TABLE XVI. PRESIDENT AND VICE-PRESIDENT, 1856

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			WHIG		
	Popu- lation (1850)	Popu- lar Vote	Per Cent of Popu- lation	Fremont and Dayton (Cal.) (N. J.)			Buchanan and Breckinridge (Pa.) (Ky.)			Fillmore and Donelson (N. Y.) (Tenn.)		
				Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote
Alabama	771,623	75,291	9.7	-----	-----	-----	46,739	62.1	9	28,552	37.9	-----
Arkansas	209,897	32,097	15.5	-----	-----	-----	21,910	67.0	4	10,787	33.0	-----
California	92,597	110,221	-----	20,691	18.8	-----	53,365	48.4	4	36,165	32.8	-----
Connecticut	370,792	80,325	21.6	42,715	53.2	6	34,995	43.6	-----	2,615	3.2	-----
Delaware	91,532	14,487	15.8	308	2.1	-----	8,004	55.3	3	6,175	42.6	-----
Florida	87,445	11,191	12.7	-----	-----	-----	6,358	56.8	3	4,833	43.2	-----
Georgia	906,185	98,806	10.9	-----	-----	-----	56,578	57.3	10	42,228	42.7	-----
Illinois	881,470	238,981	28.0	96,189	40.2	-----	105,348	44.1	11	37,444	15.7	-----
Indiana	988,416	235,431	23.8	94,375	40.1	-----	118,670	50.4	13	22,386	9.5	-----
Iowa	192,214	89,304	46.4	43,954	49.2	4	36,170	40.5	-----	9,180	10.3	-----
Kentucky	982,405	142,372	14.4	314	0.2	-----	74,642	52.4	12	67,416	47.4	-----
Louisiana	517,762	42,873	8.2	-----	-----	-----	22,164	51.7	6	20,709	48.3	-----
Maine	583,169	109,784	18.8	67,379	61.4	8	39,080	35.6	-----	3,325	3.0	8
Maryland	683,034	86,856	14.8	281	0.3	-----	39,115	45.0	-----	47,460	54.7	-----
Massachusetts	994,514	167,056	16.7	108,190	64.8	13	39,240	23.5	-----	19,626	11.7	-----
Michigan	397,654	125,558	31.5	71,762	57.2	6	52,136	41.5	-----	1,660	1.3	-----
Mississippi	606,526	59,641	9.8	-----	-----	-----	35,446	59.4	7	24,195	40.6	-----
Missouri	682,044	106,688	15.6	-----	-----	-----	58,164	54.5	9	48,524	45.5	-----
New Hampshire	317,976	71,556	22.5	38,345	53.6	5	32,789	45.8	-----	422	0.6	-----
New Jersey	489,555	99,396	20.3	28,338	28.5	-----	46,943	47.2	7	24,115	24.3	-----
New York	3,097,394	596,489	19.2	276,007	46.3	35	195,878	32.8	-----	124,604	20.9	-----
North Carolina	869,039	85,132	9.7	-----	-----	-----	48,246	56.7	10	36,886	43.3	-----
Ohio	1,980,329	386,497	19.5	187,497	48.5	23	170,874	44.2	-----	28,196	7.3	-----
Pennsylvania	2,311,786	460,395	19.9	147,510	32.0	-----	230,710	50.1	27	82,175	17.9	-----
Rhode Island	147,545	19,822	13.4	11,467	57.8	4	6,680	33.7	-----	1,675	8.4	-----
South Carolina	-----	-----	-----	Legislature	-----	-----	-----	-----	8	-----	-----	-----
Tennessee	1,002,717	139,816	13.9	-----	-----	-----	73,638	52.7	12	66,178	47.3	-----
Texas	212,592	46,808	22.0	-----	-----	-----	31,169	66.6	4	15,639	33.4	-----
Vermont	314,120	50,675	16.1	39,561	78.1	5	10,569	20.8	-----	545	1.1	-----
Virginia	1,421,661	150,307	10.5	291	0.2	-----	89,706	59.6	15	60,310	40.1	-----
Wisconsin	305,391	113,512	39.1	60,090	50.2	5	52,843	44.2	-----	579	0.5	-----
Total	22,379,384	4,047,967	18.1	1,335,264	33.0	114	1,838,169	45.4	174	874,534	21.6	8

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT		POPULAR VOTE			
	In Union	Voting	Assigned	Voting	Neces- sary for Choice	Bu- chanan	Oppo- nents	Breck- inridge	Oppo- nents	Total	Bu- chanan	Nearest Oppo- nent	All Oppo- nents
	31	31	296	296	149	174	122	174	122	4,017,967	1,838,169	1,335,264	2,209,798
													371,629

TABLE XVII. PRESIDENT AND VICE-PRESIDENT, 1860

PRESIDENTIAL ELECTIONS

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			DEMOCRATIC			CONSTITUTIONAL UNION		
	Popula- tion (1860)	Popular Vote	Per Cent of Popu- lation	Lincoln and Hamlin (Ill., Me.)		Douglas and H. V. Johnson (Ill., Ga.)	Breckinridge and Lane (Ky., Ore.)		Bell and Everett (Tenn., Mass.)	Breckinridge and Lane (Ky., Ore.)		Electoral Vote	Bell and Everett (Tenn., Mass.)		Electoral Vote
				Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote
Alabama	964,201	90,307	9.3	---	---	---	13,651	15.1	---	48,831	51.0	9	27,825	30.8	---
Arkansas	435,450	54,053	11.9	---	---	---	5,227	9.7	---	28,732	53.1	4	20,094	37.2	---
California	379,994	118,840	9.6	39,173	39.0	4	38,516	32.4	---	34,334	28.9	---	6,817	5.7	---
Connecticut	460,147	77,146	16.7	43,692	56.6	6	15,522	20.1	---	14,641	18.9	---	3,291	4.3	---
Delaware	112,216	16,049	14.2	3,815	23.8	---	1,023	6.4	---	7,347	45.7	3	3,864	24.1	---
Florida	140,424	14,347	10.2	---	---	---	367	2.6	---	8,543	59.5	3	5,437	37.9	---
Georgia	1,057,286	106,365	10.0	---	---	---	11,590	10.9	---	51,889	48.8	10	42,886	40.3	---
Illinois	1,711,951	338,693	19.7	172,161	50.8	11	160,215	47.3	---	2,404	0.7	---	3,913	1.1	---
Indiana	1,350,428	272,143	20.1	139,033	58.9	13	115,509	42.4	---	12,295	4.5	---	5,396	2.0	---
Iowa	1,350,428	128,331	19.0	70,409	54.8	4	55,111	42.9	---	1,048	0.8	---	1,763	1.4	---
Kentucky	1,155,684	146,216	12.6	1,364	0.9	---	25,651	17.5	---	53,143	36.3	---	66,058	45.1	12
Louisiana	708,002	50,510	7.1	---	---	---	7,625	15.1	---	22,681	44.9	6	20,204	40.0	---
Maine	628,279	97,918	15.5	62,811	64.1	8	26,693	27.3	---	6,368	6.5	---	2,046	2.1	---
Maryland	687,049	92,502	13.4	2,294	2.4	---	5,966	6.5	---	42,482	45.9	8	41,760	45.2	---
Massachusetts	1,231,066	169,175	13.7	106,533	63.8	13	34,372	20.3	---	5,939	3.5	---	22,331	13.2	---
Michigan	749,113	154,747	20.6	88,480	59.2	6	65,057	42.0	---	805	0.5	---	405	0.3	---
Minnesota (1858)	172,023	34,799	20.2	22,069	63.4	4	11,920	34.3	---	748	2.1	---	62	0.2	---
Mississippi	791,305	69,120	8.7	---	---	---	3,283	4.8	---	40,797	59.0	7	25,040	36.2	---
Missouri	1,182,012	165,518	14.0	17,028	10.3	---	58,801	35.5	---	31,317	18.9	---	58,372	35.3	---
New Hampshire	326,073	65,953	20.2	37,519	56.9	5	25,881	39.2	---	2,112	3.2	---	441	0.7	---
New Jersey	672,035	121,125	18.0	58,324	48.1	4	62,801	51.8	---	---	---	---	---	---	---
New York	3,880,735	675,156	17.3	362,646	53.7	35	312,510	46.3	---	---	---	---	---	---	---
North Carolina	992,622	96,030	9.6	---	---	---	2,701	2.8	---	48,339	50.3	10	44,990	46.8	---
Ohio	2,339,511	442,441	18.9	221,610	50.1	23	187,232	42.3	---	11,405	2.6	---	12,194	2.8	---
Oregon (1859)	52,465	12,410	23.6	5,270	42.4	3	3,951	31.8	---	3,006	24.2	---	183	1.4	---
Pennsylvania	2,906,215	476,442	16.3	268,030	56.3	27	16,765	3.5	---	178,871	37.5	---	12,776	2.7	---
Rhode Island	174,620	19,951	11.4	12,244	61.4	4	7,707	38.6	---	---	---	---	---	---	---
South Carolina	---	---	---	Legislature	---	---	---	---	---	---	---	---	---	---	---
Tennessee	1,109,801	145,333	13.0	---	---	---	11,350	7.8	---	64,709	44.5	8	69,274	47.7	12
Texas	604,215	62,986	10.4	---	---	---	---	---	---	47,548	75.5	4	15,438	24.5	---
Vermont	315,098	42,844	13.5	33,808	78.9	5	6,849	16.0	---	1,969	4.6	---	218	0.5	---
Virginia	1,596,318	167,223	10.4	1,929	1.1	---	16,290	9.7	---	74,323	44.4	---	74,681	44.7	15
Wisconsin	775,881	152,180	19.6	86,110	56.6	5	65,021	42.7	---	888	0.6	---	161	0.1	---
Total	30,337,132	4,676,853	15.3	1,866,352	39.9	180	1,375,157	29.4	12	847,514	18.1	72	587,830	12.5	39

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT		POPULAR VOTE						
	In Union	Voting	Assigned	Voting	Neces- sary for Choice	Lin- coln	Oppo- nents	Ham- lin	Oppo- nents	Total	Lin- coln	Nearest Oppo- nent	All Oppo- nents	Plurality	Minor- ity	
	33	33	303	303	152	180	123	180	123	4,676,853	1,866,352	1,375,157	2,810,501	491,195	944,149	

TABLE XVIII. PRESIDENT AND VICE-PRESIDENT, 1864

PRESIDENTIAL ELECTIONS											
VOTE CAST			REPUBLICAN			DEMOCRATIC			SOLDIERS' VOTE ² (Added into States' Popular Vote)		
STATES	Popu- lar Vote	Per Cent of Popu- lation	Lincoln and A. Johnson (Tenn.)		Electoral Vote	McClellan and Pendleton (Ohio)		Electoral Vote	Lincoln (Ill.)	McClellan (N. J.)	Total
			Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total				
California	379,994	27.8	62,131	58.6	5	43,841	41.4	---	2,600	237	2,837
Connecticut	460,147	18.9	44,691	51.3	6	42,285	48.7	---	---	---	---
Delaware	112,216	15.0	8,155	48.2	---	8,767	51.8	3	---	---	---
Illinois	1,711,951	20.3	189,496	54.4	16	158,730	45.6	---	---	---	---
Indiana	1,350,428	20.7	150,422	53.5	13	130,233	46.5	---	---	---	---
Iowa	674,913	20.5	89,075	64.2	8	49,596	35.8	---	15,178	1,364	16,542
Kansas (1861)	107,296	18.7	16,441	81.6	3	3,691	28.4	---	---	---	---
Kentucky	1,155,684	7.9	27,786	30.2	---	64,301	69.8	11	1,194	2,823	4,017
Maine	628,279	16.8	61,803	58.2	7	44,211	41.8	---	4,174	744	4,915
Maryland	687,049	10.6	40,153	55.0	7	32,739	45.0	---	2,800	321	3,121
Massachusetts	1,231,066	14.2	126,742	72.2	12	48,745	27.8	---	---	---	---
Michigan	749,113	22.1	91,521	55.0	8	74,604	41.9	---	---	---	---
Minnesota	172,023	24.6	25,060	59.0	4	17,375	41.0	---	9,402	2,959	12,361
Missouri	1,182,012	9.3	72,750	69.6	11	31,678	30.4	---	---	---	---
Nevada (1864)	6,857	---	9,826	59.8	2	6,594	40.2	---	---	---	---
New Hampshire	326,073	21.2	36,400	52.5	5	32,871	47.5	---	2,066	690	2,756
New Jersey	672,035	19.1	60,723	47.2	---	68,024	52.8	7	---	---	---
New York	3,880,735	18.8	368,735	50.4	33	361,986	49.6	---	---	---	---
Ohio	2,339,511	20.1	265,154	56.3	21	205,568	43.7	---	41,146	9,757	50,903
Oregon	52,465	34.9	9,888	53.9	3	8,457	46.1	---	---	---	---
Pennsylvania	2,906,215	19.7	296,391	51.7	26	276,316	48.2	---	26,712	12,349	39,061
Rhode Island	174,620	12.6	13,692	61.7	4	8,470	38.3	---	---	---	---
Vermont	315,098	17.6	42,419	76.1	5	13,321	33.9	---	243	49	292
West Virginia (1863)	400,293	8.4	23,152	68.9	5	10,438	31.1	---	---	---	---
Wisconsin	775,881	19.0	83,458	55.9	8	65,884	44.1	---	11,372	2,458	13,830
Total	22,451,774	17.9	2,216,067	55.0	212	1,808,725	44.9	21	116,887	33,748	150,635

SUMMARY	STATES		ELECTORS		PRESIDENT		VICE-PRESIDENT		POPULAR VOTE						
	In Union	Voting	Assigned	Voting	Neces- sary for Choice	Lin- coln	Oppo- nent	A. John- son ³	Oppo- nent	Total	Lin- coln	Nearest Oppo- nent	All Oppo- nents	Plurality	Majority
	36	25 ¹	314 ⁴	233	117	212	21	212	21	4,024,792	2,216,067	1,808,725	1,808,725	407,342	407,342

¹ By statute of Feb. 8, 1865, the eleven states then in secession were declared not to be in a status to participate.

² The soldier vote changed the result in no state.

³ On April 15, 1865, by death of Lincoln, Johnson became President.

⁴ Three of the five votes of West Virginia would have been deducted from those of Virginia, making the total electoral vote 314.

TABLE XIX. PRESIDENT AND VICE-PRESIDENT, 1868, AND VICE-PRESIDENT, 1872 ⁴

PRESIDENT AND VICE-PRESIDENT, 1868										VICE-PRESIDENT, 1872											
STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			RE- PUB- LICAN	DEMOCRATIC						Liberal Repub- lican				
	Popula- tion (1870)	Popular Vote	Per Cent of Popu- lation	Grant and Colfax (Ind.)		Seymour (N. Y.)	Blair (Mo.)	Per Cent of Total	Elec- toral Vote		Wil- son (Mass.)	Brown (Ind.)	Col- quitt (Ga.)	Palm- er (Ill.)	Bram- lette (Ky.)	Groes- beck (Ohio)		Mach- en (Ky.)	Banks (Mass.)	Julian (Ind.)	Elec- toral Vote
				Popular Vote	Per Cent of Total																
Alabama	996,992	148,454	14.8	76,366	51.4	8	72,088	48.5		10											
Arkansas	484,471	41,190	8.5	22,112	53.6	5	19,078	46.4		(6)											
California	560,247	108,660	19.3	54,583	50.2	5	54,077	49.8		6											
Connecticut	537,454	98,947	18.4	50,995	51.5	6	47,952	48.5		6											
Delaware	125,015	18,603	14.8	7,623	41.0		10,980	59.0		3											
Florida						3				4											
Georgia	1,184,109	159,853	13.4	57,131	35.8		102,722	64.2	191 ¹		5										
Illinois	2,539,891	449,446	17.6	250,303	55.6	16	199,143	44.4		21								1			
Indiana	1,680,637	343,528	20.4	176,548	51.3	13	166,980	48.7		15											
Iowa	1,194,020	194,439	16.2	120,399	61.9	8	74,040	38.1		11											
Kansas	364,399	45,038	12.3	31,048	68.9	3	13,990	31.1		5											
Kentucky	1,321,011	155,456	11.7	39,566	25.5		115,890	74.5			8			3			1				
Louisiana	726,915	113,488	15.6	33,263	29.4		80,225	70.6		(8) ³											
Maine	626,915	112,953	18.0	70,493	62.4	7	42,460	37.6		7											
Maryland	780,894	92,795	11.8	30,438	32.9		62,357	67.1			8										
Massachusetts	1,457,351	195,885	13.4	136,477	69.6	12	59,408	30.4		13											
Michigan	1,184,059	225,619	19.0	128,550	56.9	8	97,069	43.1		11											
Minnesota	439,706	71,620	16.2	43,545	60.8	4	28,075	39.2		5											
Mississippi				Unreconstructed																	
Missouri	1,721,295	152,488	8.8	86,860	56.9	11	65,628	40.4			6		3		1					5	
Nebraska (1867)	122,993	15,168	12.3	9,729	64.1	3	5,439	35.9		8											
Nevada	42,491	11,698	27.5	6,480	55.3	3	5,218	44.7		3											
New Hampshire	318,300	69,435	21.8	38,191	55.0	5	31,214	45.0		5											
New Jersey	906,096	163,132	18.0	80,131	49.2		83,001	50.8		9											
New York	4,382,759	849,766	19.3	419,883	49.5		429,883	50.5		35											
North Carolina	1,071,361	181,370	16.9	96,769	53.3	9	84,601	46.7		35											
Ohio	2,665,260	518,829	19.4	280,223	54.0	21	238,606	46.0		22											
Oregon	90,923	22,086	24.2	10,961	49.7		11,125	50.3		3											
Pennsylvania	3,521,951	655,662	18.6	342,280	52.2	26	313,382	47.8		29											
Rhode Island	217,353	19,541	8.9	12,993	66.4	4	6,548	33.6		4											
South Carolina	705,606	107,538	15.2	62,301	57.9	6	45,237	42.1		7											
Tennessee	1,258,520	82,757	6.5	56,628	68.4	10	26,129	31.6			12										
Texas				Unreconstructed							8										
Vermont	330,551	56,212	17.0	44,167	78.5	5	12,045	21.5		5											
Virginia				Unreconstructed																	
West Virginia	442,014	49,481	11.1	29,175	58.9	5	20,306	41.1		11											
Wisconsin	1,054,670	193,564	18.3	108,857	56.2	8	84,707	43.8		10											
Total	35,056,229	5,724,701	16.3	3,015,068	52.6	214	2,709,633	47.3	80	286 ³	47	5	3	3	1		1			5	

(See next page for Summary)

TABLE XIX. PRESIDENT AND VICE-PRESIDENT, 1868, AND VICE-PRESIDENT, 1872—Continued

SUM-MARY	STATES			ELECTORS			PRESIDENT		VICE-PRESIDENT			POPULAR VOTE				
	ELECTION	In Union	Voting	Assigned	Voting	Neces-sary for Choice	Grant	Oppo-nent	Highest Candi-date	Oppo-nenis	Total	Grant	Nearest Oppo-nent	All Oppo-nenis	Plurality	Majority
	1868	37	34	317	294 ²	148	214	80	C'olfax, 214	80	5,724,701	3,015,068	2,709,633	2,709,633	305,435	305,435
	1872	37	35	306	352 ³	177	4	4	Wilson 286	66						

For popular vote see Table XX.

¹ Georgia counted in the alternative.
² Twenty-three votes not counted from Mississippi (7), Texas (6), and Virginia (10).
³ Fourteen votes not counted from Louisiana (8) and Arkansas (6).
⁴ For President, 1872, see Table XX.

TABLE XX. PRESIDENT, 1872

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			Inde- pendent Demo- cratic	Demo- cratic	Demo- cratic	Straight Demo- cratic	Temper- ance
	Popula- tion (1870)	Popular Votes	Per Cent of Popula- tion	Grant and Wilson (Ill.)			Greeley and Brown (N.Y.)							
				Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Elec- toral Vote					
Alabama	996,992	169,716	17.0	90,272	53.2	10	79,444	46.8						
Arkansas	484,471	79,300	16.3	41,373	52.3	(6) ¹	37,927	47.8						
California	560,247	95,806	17.1	54,020	56.4	6	40,718	42.5					1,068	
Connecticut	537,454	96,928	18.0	50,638	52.3	6	45,880	47.3					204	206
Delaware	125,015	21,808	17.4	11,115	51.0	3	10,206	46.8					487	
Florida	187,748	33,190	17.6	17,763	53.5	4	15,427	46.5						
Georgia	1,184,109	142,906	12.0	62,550	43.8		76,356	53.4			6	2	4,000	
Illinois	2,539,891	429,940	16.9	241,944	56.3	21	184,938	43.0					3,058	
Indiana	1,680,637	351,196	20.8	186,147	53.0	15	163,632	46.6					1,417	
Iowa	1,194,020	204,983	17.1	131,566	64.2	11	71,196	34.7					2,221	
Kansas	364,399	100,614	27.6	67,048	66.6	5	32,970	32.8					596	
Kentucky	1,321,011	191,135	14.4	88,766	46.4		99,995	52.3			4	8	2,374	
Louisiana	726,915	128,692	17.7	71,663	55.7	(8) ¹	57,029	44.3						
Malne	626,915	90,509	14.4	61,422	67.8	7	29,087	32.1						
Maryland	780,894	135,374	17.3	66,760	49.3		67,687	50.1					908	19
Massachusetts	1,457,351	192,732	13.2	133,472	69.3	13	59,260	30.7						
Michigan	1,184,059	220,942	18.6	138,455	62.6	11	78,355	35.5					2,861	1,271

(Continued on next page)

TABLE XX. PRESIDENT, 1872-Continued

PRESIDENTIAL ELECTIONS

STATES	VOTER CAST			REPUBLICAN			DEMOCRATIC			Democratic	Independent Democratic	Democratic	Straight Democratic	Temperature						
	Population (1870)	Popular Vote	Per Cent of Population	Grant and Wilson (Ill.) (Mass.)		Electoral Vote	Greeley and Brown (N. Y.) (Mo.)		Electoral Vote						Brown (Mo.)	Hendricks (Ind.)	Jenkins (Ga.)	Davis (Ill.)	O'Connor (N. Y.)	Popular Vote
				Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total												
Minnesota	439,706	89,540	20.3	55,117	61.6	5	34,423	38.4	---	---	---	---	---	---	---					
Mississippi	827,922	129,463	15.6	82,175	63.5	8	47,288	36.5	---	---	---	---	---	---	---					
Missouri	1,721,295	273,059	15.8	119,196	43.6	---	151,434	55.5	---	8	6	---	1	2,429	---					
Nebraska	122,993	26,141	21.2	18,329	70.1	3	7,812	29.9	---	---	---	---	---	---	---					
Nevada	42,491	14,649	34.4	8,413	57.4	3	6,236	42.6	---	---	---	---	---	---	---					
New Hampshire	318,300	68,892	21.6	37,168	54.0	5	31,424	45.6	---	---	---	---	---	---	200					
New Jersey	906,096	168,742	18.6	91,656	54.3	9	76,456	45.3	---	---	---	---	---	---	630					
New York	4,382,759	829,672	18.9	440,736	53.1	35	387,281	46.7	---	---	---	---	---	---	---					
North Carolina	1,071,361	164,863	15.3	94,769	57.5	10	70,094	42.5	---	---	---	---	---	---	201					
Ohio	2,665,260	529,436	19.8	281,852	53.2	22	244,321	46.2	---	---	---	---	---	---	2,100					
Oregon	90,923	20,121	22.1	11,819	58.7	3	7,730	38.4	---	---	---	---	---	---	572					
Pennsylvania	3,521,951	563,260	15.9	349,589	62.1	29	212,041	37.6	---	---	---	---	---	---	1,630					
Rhode Island	217,353	18,994	8.7	13,665	71.9	4	5,329	28.1	---	---	---	---	---	---	---					
South Carolina	705,606	95,180	13.4	72,290	75.9	7	22,703	23.9	---	---	---	---	---	---	187					
Tennessee	1,258,520	180,046	14.3	85,655	47.6	---	94,391	52.4	---	---	12	---	---	---	---					
Texas	818,579	116,405	14.2	47,406	41.1	---	66,500	57.1	---	---	8	---	---	---	2,499					
Vermont	330,551	53,001	16.0	41,481	78.3	5	10,927	20.6	---	---	---	---	---	---	593					
Virginia	1,225,163	185,164	15.1	93,468	50.5	11	91,654	49.5	---	---	---	---	---	---	42					
West Virginia	442,014	62,366	14.1	32,315	51.8	5	29,451	47.2	---	---	---	---	---	---	600					
Wisconsin	1,054,670	192,308	18.2	104,997	54.6	10	86,477	45.0	---	---	---	---	---	---	834					
Total	38,115,641	6,467,073	16.9	3,597,070	55.6	286	2,834,079	43.8	(3) 2	18	42	2	1	30,297	5,627					

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT 2			POPULAR VOTE				
	In Union	Voting	Assigned	Voting	Necessary for Choice	Grant	Opponents	Wilson	Opponents	Total	Grant	Nearest Opponent	All Opponents	Plurality	Majority
	37	35	366	352 1	177	286	63 3	286	66 3	6,647,073	3,597,070	2,834,079	2,870,003	762,991	727,067

1 Fourteen votes not counted from Arkansas (6) and Louisiana (8).

2 For vice-presidential vote of 1872, see Table XIX.

3 Three votes for Horace Greeley (deceased) from Georgia not counted.

PRESIDENTIAL ELECTIONS

TABLE XXI. PRESIDENT AND VICE-PRESIDENT, 1876

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			GREENBACK ²		PROHIB. ²		AMERICAN ²	
	Popu-lation (1870)	Popu-lar Vote	Per Cent of Popu-lation	Hayes and Wheeler (N. Y.)		Electoral Vote	Tilden and Hendricks (Ind.)		Electoral Vote	Cooper (N. Y.)	Popular Vote	Smith (N. Y.)	Popular Vote	Walker (Ill.)	Popular Vote
				Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total							
Alabama	996,992	170,232	17.0	68,230	40.0	---	102,002	59.9	10	---	---	---	---	---	---
Arkansas	484,471	97,029	20.0	38,659	39.9	---	58,071	59.8	6	---	289	---	---	---	---
California	560,247	155,800	---	79,269	50.8	6	76,465	49.0	---	---	47	---	---	19	---
Colorado (1876)	---	---	Legislature	---	---	3	---	---	---	---	---	---	---	---	---
Connecticut	537,454	122,156	22.7	59,034	48.3	---	61,434	50.7	6	---	774	378	---	36	---
Delaware	125,015	24,133	19.3	10,752	41.6	---	13,381	55.4	3	---	---	---	---	---	---
Florida	187,718	46,772	24.9	23,849	51.0	4	22,923	49.0	---	---	---	---	---	---	---
Georgia	1,184,109	180,534	15.2	50,446	27.9	---	130,088	72.1	11	---	---	---	---	---	---
Illinois	2,539,891	554,493	21.8	278,232	50.2	21	258,691	46.6	---	---	---	---	---	286	---
Indiana	1,680,637	431,070	---	208,011	48.3	---	213,526	49.5	15	---	17,293	141	---	---	---
Iowa	1,194,020	292,463	24.4	171,297	58.6	11	112,099	38.3	---	---	9,533	---	---	---	---
Kansas	364,399	124,133	31.0	78,322	63.1	5	37,902	30.5	---	---	7,776	110	---	23	---
Kentucky	259,608	97,156	19.6	97,156	37.4	---	159,690	61.5	12	---	1,944	818	---	---	---
Louisiana	726,915	145,643	20.0	75,135	51.6	8	70,508	48.4	---	---	---	---	---	---	---
Maine	626,915	116,786	18.4	66,300	57.2	7	49,823	42.6	---	---	663	---	---	---	---
Maryland	780,894	163,804	20.9	71,981	44.0	---	91,780	56.0	8	---	33	10	---	---	---
Massachusetts	1,457,351	259,703	17.8	150,963	57.8	13	108,777	41.9	---	---	779	84	---	---	---
Michigan	1,184,059	317,526	26.8	166,534	52.5	11	141,095	44.4	---	---	9,060	766	---	71	---
Minnesota	439,706	124,144	28.2	72,962	58.8	5	48,739	39.3	---	---	2,311	72	---	---	---
Mississippi	827,922	164,778	19.9	52,605	31.9	---	112,173	68.1	8	---	---	---	---	---	---
Missouri	1,721,295	351,765	20.4	145,029	41.2	---	203,077	57.8	15	---	3,498	64	---	97	---
Nebraska	122,963	53,506	43.5	31,916	59.7	3	17,554	32.8	---	---	2,320	1,599	---	117	---
Nevada	42,491	19,691	46.3	10,383	52.7	---	9,308	47.3	---	---	---	---	---	---	---
New Hampshire	318,300	80,124	25.1	41,539	51.8	5	38,509	48.1	---	---	76	---	---	---	---
New Jersey	906,096	220,234	24.3	103,517	47.0	---	115,962	52.7	---	---	712	43	---	---	---
New York	4,382,759	1,017,330	23.2	489,207	48.1	---	521,949	51.3	35	---	1,987	2,359	---	1,828	---
North Carolina	1,071,361	233,844	21.8	108,417	46.4	---	125,427	53.6	10	---	---	---	---	---	---
Ohio	2,665,290	658,649	24.7	330,698	50.2	22	323,182	49.1	---	---	3,057	1,636	---	76	---
Oregon	90,923	29,865	32.8	15,206	50.9	---	14,149	47.4	---	---	---	---	---	---	---
Pennsylvania	3,521,951	758,869	21.5	384,122	50.6	3	366,188	48.2	---	---	7,187	1,319	---	83	---
Rhode Island	217,353	26,627	12.2	15,787	59.3	29	10,712	40.2	---	---	68	60	---	---	---
South Carolina	705,606	182,776	25.9	91,870	50.3	7	90,906	49.7	---	---	---	---	---	---	---
Tennessee	1,258,520	222,732	17.6	89,566	40.2	---	133,166	59.8	12	---	---	---	---	---	---
Texas	818,579	149,555	18.2	44,800	30.0	---	104,755	70.0	8	---	---	---	---	---	---
Vermont	330,551	64,346	19.4	44,092	68.5	5	20,254	31.5	---	---	---	---	---	---	---
Virginia	1,225,163	235,228	19.1	95,558	40.6	---	139,670	59.4	11	---	---	---	---	---	---
West Virginia	442,014	100,526	22.7	42,698	42.4	---	56,455	56.2	5	---	1,373	---	---	---	---
Wisconsin	1,054,670	256,131	24.2	130,668	51.0	10	123,927	48.4	---	---	1,509	27	---	---	---
Total	38,115,641	8,412,605	22.0 ¹	4,033,950	47.9	185	4,284,757	50.9	184	---	81,740	9,522	---	---	2,636

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT		POPULAR VOTE					
	In Union	Voting	Assigned	Voting	Necessary for Choice	Hayes	Opponents	Wheeler	Opponents	Total	Hayes	Nearest Opponent	All Opponents	Minus Plurality	Minority
38	38	369	369	185	185	184	185	184	8,412,605	4,033,950	4,284,757	4,373,655	250,807	344,705	

¹ Percentage calculated on defective census of 1870; actual percentage about 20.

² Vice-presidential candidates receiving no electoral votes: Cary (O.), Greenback; Stewart (O.), Prohibition; Kirkpatrick (N. Y.), American.

TABLE XXII. PRESIDENT AND VICE-PRESIDENT, 1880

PRESIDENTIAL ELECTIONS

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			GREENBACK		PROHIB.	
	Popu-lation (1880)	Popu-lar Vote	Per Cent of Popu-lation	Garfield and Arthur (N. Y.)		Electoral Vote	Hancock and English (Ind.)		Electoral Vote	Weaver ¹ (Iowa)		Low ¹ (Mo.)	
				Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total		Popular Vote	Popular Vote	Popular Vote	Popular Vote
Alabama	1,262,505	151,507	12.0	56,178	37.1	---	90,687	59.8	10	4,612	---	---	---
Arkansas	802,525	106,229	13.2	41,661	39.2	---	60,489	57.0	6	4,079	---	---	---
California	864,694	161,166	18.9	80,318	48.9	1	80,426	49.0	5	3,392	---	---	---
Colorado	194,327	53,532	27.5	27,450	51.0	3	24,617	46.0	---	---	---	---	---
Connecticut	622,700	132,770	21.3	67,073	50.5	6	64,417	48.5	---	---	---	---	---
Delaware	146,608	29,453	20.0	14,450	48.0	---	15,183	51.6	3	868	---	---	---
Florida	269,493	51,618	19.1	23,654	45.8	---	27,964	54.1	4	1,435	---	---	---
Georgia	1,512,180	155,651	10.0	52,618	33.8	---	102,522	65.8	11	481	---	---	---
Illinois	3,077,871	622,312	20.2	318,937	51.1	21	277,321	44.6	---	---	---	---	---
Indiana	1,978,301	470,678	23.7	232,161	49.3	15	225,528	47.9	---	---	---	---	---
Iowa	1,624,615	322,706	19.8	183,904	57.0	11	105,845	32.8	---	---	---	---	---
Kansas	996,096	201,019	20.1	121,520	60.5	5	59,789	29.7	---	---	---	---	---
Kentucky	1,648,690	264,304	16.0	104,550	39.5	---	147,999	55.9	12	11,498	---	---	---
Louisiana	939,946	103,743	11.0	37,994	36.6	---	65,310	62.9	8	439	---	---	---
Maine	648,936	143,853	22.1	74,039	51.5	7	65,171	45.3	---	---	---	---	---
Maryland	934,943	173,039	18.5	78,515	45.4	---	93,706	54.1	8	818	---	---	---
Massachusetts	1,783,085	282,512	15.8	165,205	58.5	13	111,960	39.6	---	---	---	---	---
Michigan	1,636,937	352,441	21.5	185,190	52.5	11	131,300	37.3	---	---	---	---	---
Minnesota	780,773	150,771	19.3	93,903	62.3	5	53,315	35.4	---	---	---	---	---
Mississippi	1,131,597	117,078	10.3	34,854	29.8	---	75,750	64.7	8	5,797	---	---	---
Missouri	2,168,380	397,221	18.3	153,567	38.7	---	208,609	52.5	15	35,045	---	---	---
Nebraska	452,402	87,355	19.3	54,979	62.9	3	28,523	32.6	---	---	---	---	---
Nevada	62,266	18,313	29.4	8,732	47.6	---	9,611	52.4	3	---	---	---	---
New Hampshire	346,990	86,363	24.3	44,852	51.9	5	40,794	47.2	---	---	---	---	---
New Jersey	1,131,116	245,928	21.7	120,555	49.0	---	122,505	49.8	9	528	---	---	---
New York	5,082,871	1,104,605	21.7	555,544	50.2	35	534,511	48.3	---	---	---	---	---
North Carolina	1,399,750	241,218	17.2	115,878	48.0	---	124,204	51.5	10	1,136	---	---	---
Ohio	3,198,062	724,967	22.6	375,048	51.7	22	340,821	47.0	---	---	---	---	---
Oregon	174,768	40,816	23.3	20,619	50.5	3	19,948	48.9	---	---	---	---	---
Pennsylvania	4,282,891	874,783	20.4	444,704	50.8	29	407,428	46.6	---	---	---	---	---
Rhode Island	276,531	29,235	10.5	18,195	62.2	4	10,779	36.9	---	---	---	---	---
South Carolina	995,577	170,956	17.1	58,071	34.0	---	112,312	65.7	7	566	---	---	---
Tennessee	1,542,359	241,827	15.6	107,677	44.5	---	128,191	53.0	12	5,916	---	---	---
Texas	1,591,749	241,478	15.1	57,845	23.9	---	156,298	64.7	8	27,405	---	---	---
Vermont	332,286	64,593	19.4	45,090	69.8	5	18,181	28.1	---	---	---	---	---
Virginia	1,512,565	212,135	14.0	81,020	39.6	---	127,976	60.3	11	139	---	---	---
West Virginia	618,457	112,713	18.2	46,243	41.0	---	57,391	50.9	5	9,079	---	---	---
Wisconsin	1,315,497	267,172	20.3	144,337	54.0	10	114,634	42.9	---	---	---	---	---
Total	49,371,339	9,211,090	18.7	4,449,653	48.3	214	4,442,035	48.2	155	307,426	12,576	0	0

SUMMARY	STATES			ELECTORS			PRESIDENT			VICE-PRESIDENT			POPULAR VOTE			
	In Union	Voting	Assigned	Voting	Necessarv for Choice	Gar-field	Oppo-nent	Arthur ²	Oppo-nent	Total	Gar-field	Nearest Oppo-nent	All Oppo-nents	Plurality	Minor-ity	
	38	38	369	369	185	214	155	214	155	9,211,090	4,449,653	4,442,035	4,702,037	7,018	252,984	

¹ Vice-presidential candidates receiving no electoral votes; Chambers (Tex.), Greenback; Thompson (O.); Prohibition; Fomeroy (Kan.), American.
² On September 19, 1881, by the death of Garfield, Arthur became President.

PRESIDENTIAL ELECTIONS

TABLE XXIII. PRESIDENT AND VICE-PRESIDENT, 1884

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			GREENBACK	PROHIB.
	Popu-lation (1880)	Popu-lar Vote	Per Cent of Popu-lation	Blaine and Logan (Ill.)		Electoral Vote	Cleveland and Hendricks (N. Y.)		Electoral Vote	Butler ¹ (Mass.)	
				Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total			
Alabama	1,262,505	153,480	12.1	59,114	38.5	---	92,973	60.6	10	762	610
Arkansas	802,525	125,580	15.6	50,806	40.5	---	72,927	58.1	7	1,847	---
California	861,694	196,641	22.7	102,416	52.1	8	89,288	45.4	---	2,017	2,920
Colorado	194,327	66,492	34.2	36,166	54.4	3	27,603	41.5	---	1,961	762
Connecticut	622,700	137,233	22.0	65,893	48.0	---	67,167	48.9	6	1,684	2,489
Delaware	146,698	30,163	20.5	13,633	43.4	---	16,976	53.4	3	10	61
Florida	269,493	59,872	22.2	28,031	46.8	---	31,769	53.1	4	---	72
Georgia	1,512,180	143,513	9.3	47,632	33.4	---	94,653	66.4	12	135	168
Illinois	3,077,871	672,849	21.8	337,411	50.1	22	312,584	46.5	---	10,849	12,005
Indiana	1,978,391	494,793	25.0	238,480	48.2	---	244,392	49.5	15	8,293	3,028
Iowa	1,621,615	375,877	23.1	197,089	52.4	13	177,316	47.2	---	1,472	1,472
Kansas	996,096	265,833	26.6	154,406	58.1	9	90,132	33.9	---	4,954	3,139
Kentucky	1,618,690	275,915	16.7	118,122	42.8	---	152,961	55.4	13	16,311	3,338
Louisiana	939,946	109,334	11.6	46,347	42.4	---	62,529	57.2	8	1,693	120
Maine	648,936	129,509	19.9	71,716	55.4	6	51,656	39.9	---	3,994	2,143
Maryland	931,943	186,019	19.8	85,748	46.0	---	96,866	52.0	8	578	2,897
Massachusetts	1,783,085	303,383	17.0	146,724	48.3	14	122,352	40.3	---	24,382	9,925
Michigan	1,636,937	405,470	24.7	192,669	47.5	13	189,361	46.7	---	753	18,403
Minnesota	780,173	190,017	24.3	111,685	58.8	7	70,065	36.9	---	3,583	4,684
Mississippi	1,131,597	120,019	10.6	43,509	36.2	---	76,510	63.7	9	---	---
Missouri	2,168,380	441,070	20.3	202,929	46.0	---	235,988	53.5	16	---	---
Nebraska	452,402	131,240	29.6	76,903	57.3	5	54,291	40.5	---	---	---
Nevada	62,266	12,797	20.5	7,193	56.2	3	5,578	43.6	---	26	---
New Hampshire	346,991	84,566	24.3	43,270	51.2	4	39,187	46.3	---	552	1,571
New Jersey	1,131,116	261,537	23.1	123,366	47.3	---	127,778	49.0	9	3,456	6,153
New York	5,082,871	1,171,312	23.0	562,001	50.7	---	563,048	50.8	36	17,002	25,001
North Carolina	1,399,750	268,474	19.1	125,068	46.6	---	142,952	53.2	11	---	454
Ohio	3,198,062	784,807	24.5	400,082	51.0	23	368,286	46.9	---	5,170	11,269
Oregon	174,768	52,682	30.1	26,860	51.0	3	24,604	46.7	---	726	492
Pennsylvania	4,282,891	899,328	20.9	473,804	52.7	30	392,785	43.7	---	17,002	15,737
Rhode Island	276,531	32,771	11.8	19,030	58.1	4	12,391	37.8	---	422	928
South Carolina	995,577	91,578	9.1	21,733	23.7	---	69,845	76.3	9	957	1,151
Tennessee	1,542,359	259,468	16.8	124,090	47.8	---	133,270	51.4	12	3,321	3,534
Texas	1,591,749	325,317	20.4	93,141	28.6	---	225,309	69.3	13	785	1,752
Vermont	332,286	59,382	17.8	39,514	66.5	4	17,331	29.2	---	---	---
Virginia	1,512,565	284,991	18.8	139,356	48.9	---	145,497	51.1	12	---	138
West Virginia	618,457	132,157	21.3	63,096	47.8	---	67,317	50.9	6	---	939
Wisconsin	1,315,497	319,942	24.3	161,157	50.4	11	146,459	45.8	---	---	7,656
Total	49,371,339	10,058,390 ²	20.4	4,849,680	48.5	182	4,912,696	49.1	219	133,824	151,830

SUMMARY	STATES		ELECTORS			VICE-PRESIDENT				POPULAR VOTE			
	In Union	Voting	Assigned	Voting	Neces-sary for Choice	Cleve-land	Oppo-nents	Hendricks	Oppo-nents	Total ²	Cleve-land	Nearest Oppo-nent	All Oppo-nents
	38	38	401	401	202	219	182	219	182	10,058,390	4,912,696	4,849,680	5,145,694
													63,016
													232,998

¹ Vice-Presidential candidates receiving no electoral votes: West (Miss.), Greenback; Daniel (Md.), Prohibition.

² 10,360 popular votes "scattering" are included in the state totals and also in the national total.

PRESIDENTIAL ELECTIONS

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			Labor Streeter ¹ (Ill.)	Prohibition Fiske ¹ (N. J.)	United Lab. Cowdry ¹ (Ill.)	American Curtis ¹ (Conn.)
	Popu- lation (1890)	Popu- lar Vote	Per Cent of Popu- lation	B. Harrison and Morton (Ind.)		Electoral Vote	Cleveland and Thurman (N. Y.)		Electoral ¹ Vote				
				Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total			Popular Vote		
Alabama	1,513,401	174,100	11.5	56,197	32.3	---	117,320	67.4	10	---	583	---	---
Arkansas	1,128,211	158,248	14.0	60,245	38.1	---	86,717	54.8	7	---	615	---	---
California	1,213,398	248,306	20.4	124,816	50.3	8	117,729	47.4	---	---	5,761	---	---
Colorado	413,249	91,799	22.2	50,774	55.3	3	37,567	40.9	---	---	2,192	---	---
Connecticut	746,258	153,984	20.7	74,586	48.4	---	74,922	48.7	6	---	4,236	---	---
Delaware	168,493	29,787	17.6	12,973	43.6	---	16,114	55.0	3	---	400	---	---
Florida	391,422	66,728	17.0	26,654	40.0	---	39,656	59.4	4	---	---	---	---
Georgia	1,837,353	142,869	7.7	40,453	28.3	---	100,472	70.3	12	---	---	---	---
Illinois	3,826,352	747,683	19.5	370,475	49.5	22	348,371	46.6	---	---	---	---	---
Indiana	2,192,404	536,949	24.4	263,361	49.1	15	261,013	48.6	---	---	---	---	---
Iowa	1,912,297	404,130	21.1	211,598	52.4	13	179,877	44.5	---	---	---	---	---
Kansas	1,428,108	330,216	23.1	182,904	55.4	9	102,745	31.1	---	---	---	---	---
Kentucky	1,858,635	344,159	12.0	155,134	45.1	---	183,800	53.4	13	---	---	---	---
Louisiana	1,118,588	115,899	10.3	30,701	26.5	---	85,032	73.4	8	---	---	---	---
Maine	661,086	128,133	19.3	73,656	57.5	6	50,437	39.4	---	---	---	---	---
Maryland	1,042,390	210,921	20.2	99,986	47.4	---	106,168	50.3	8	---	---	---	---
Massachusetts	2,238,947	344,498	27.8	183,892	53.4	14	151,905	44.1	---	---	---	---	---
Michigan	2,093,890	475,356	22.7	236,387	49.7	13	213,469	41.9	---	---	---	---	---
Minnesota	1,310,283	263,285	20.0	142,492	54.1	7	104,385	39.7	---	---	---	---	---
Mississippi	1,289,600	116,845	9.0	31,120	26.6	---	85,467	73.2	9	---	---	---	---
Missouri	2,679,185	521,353	19.4	236,252	45.3	---	261,943	50.3	16	---	---	---	---
Nebraska	1,062,636	202,622	19.0	108,425	53.5	5	80,542	39.8	---	---	---	---	---
Nevada	47,355	12,278	25.9	7,088	57.7	3	5,149	42.0	---	---	---	---	---
New Hampshire	376,530	90,819	24.1	45,728	50.4	4	43,456	47.8	---	---	---	---	---
New Jersey	1,444,933	303,801	21.0	144,360	47.5	---	151,508	49.9	9	---	---	---	---
New York	6,003,174	1,317,160	21.9	650,338	49.4	36	635,965	48.3	---	---	---	---	---
North Carolina	1,617,949	285,956	17.6	134,784	47.1	---	148,336	51.8	11	---	---	---	---
Ohio	3,672,329	840,361	23.5	416,054	49.5	23	396,455	47.2	---	---	---	---	---
Oregon	317,704	61,853	19.4	33,291	53.8	3	26,522	42.9	---	---	---	---	---
Pennsylvania	5,258,113	998,115	18.9	526,269	52.7	30	447,004	44.7	---	---	---	---	---
Rhode Island	345,506	40,750	11.7	21,969	53.9	4	17,530	43.0	---	---	---	---	---
South Carolina	1,151,149	79,565	6.9	13,740	17.3	---	65,825	82.7	9	---	---	---	---
Tennessee	1,767,518	303,744	17.2	138,988	45.7	---	158,779	52.3	12	---	---	---	---
Texas	2,235,527	357,371	15.9	88,280	24.7	---	234,883	65.7	13	---	---	---	---
Vermont	332,422	63,440	19.1	45,192	71.2	4	16,788	26.5	---	---	---	---	---
Virginia	1,655,980	304,110	18.3	150,449	49.5	---	151,979	50.0	12	---	---	---	---
West Virginia	762,794	159,441	44.6	78,171	49.0	---	78,677	49.4	6	---	---	---	---
Wisconsin	1,693,330	354,774	20.9	176,555	49.9	11	155,243	43.7	---	---	---	---	---
Total	60,808,519	11,381,408 ^a	18.7	5,444,337	47.8	233	5,540,050	48.7	168	---	---	---	1,551 ²
										146,897	2,808 ²		

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT		POPULAR VOTE					
	In Union	Voting	Assigned	Voting	Necessary for Choice	Harri-son	Oppo-nents	Mor-ton	Oppo-nents	Total ³	Harri-son	Nearest Oppo-nent	All Oppo-nents ³	Minus Plural-ity	Minor-ity
	38	38	401	401	202	233	168	233	168	11,385,807	5,444,337	5,540,050	5,941,471	95,713	497,134

¹ Vice-presidential candidates receiving no electoral votes: Cunningham (Ark.), Labor; Brooks (Mo.), Prohibition; Wakefield (Kan.), United Labor; Greer (Tenn.), American.
² Not included in total popular vote.
³ Adding in the United Labor and American votes (which are not distributed by states) the total is 11,385,808, instead of 11,381,409 as shown in the column of popular votes.

PRESIDENTIAL ELECTIONS

TABLE XXV. PRESIDENT AND VICE-PRESIDENT, 1892

STATES	VOTE CAST		REPUBLICAN		DEMOCRATIC		POPULIST		PROHIB.
	Popu- lation (1890)	Per Cent of Popu- lation	Harrison and Reid (Ind., N. Y.)		Cleveland and Stevenson (N. Y., Ill.)		Weaver and Field (Iowa, Va.)		Bidwell ¹ (Cal.)
			Popular Vote	Per Cent of Total	Popular Vote	Per Cent of Total	Popular Vote	Per Cent of Total	Popular Vote
Alabama	1,513,401	15.3	9,197	4.0	138,138	59.3	85,181	241	
Arkansas	1,128,211	13.0	46,974	32.0	87,834	59.9	11,831	130	
California	1,213,398	24.1	117,962	45.2	118,174	45.3	25,311	8,096	
Colorado	413,219	22.7	38,620	41.1			53,584	4	
Connecticut	746,258	22.1	77,032	46.9	82,395	50.2	809	1,687	
Delaware	168,493	22.1	18,077	48.4	18,581	49.8		4,026	
Florida	391,422	9.0			30,143	84.8	4,843	564	
Georgia	1,837,353	12.0	48,305	58.4	129,386	21.2	42,937	570	
Idaho (1890)	88,548	22.1	8,799	44.9	2		10,520	988	
Illinois	3,826,352	22.8	399,288	45.7	426,281	48.8	22,207	288	
Indiana	2,192,404	24.3	255,615	46.2	262,740	47.4	22,208	25,870	
Iowa	1,912,297	23.1	219,795	49.6	196,367	44.3	20,595	13,050	
Kansas	1,428,108	22.7	157,241	48.4			163,111	6,402	
Kentucky	1,858,635	18.3	135,441	39.7	175,461	51.5	23,500	4,553	
Louisiana	1,118,588	10.3	27,903	24.1	87,662	75.9		6,442	
Maine	661,086	17.5	62,878	54.2	48,024	41.4	2,045	3,062	
Maryland	1,042,390	20.4	92,736	43.5	113,866	53.4		5,877	
Massachusetts	2,238,947	17.4	202,927	51.9	176,858	45.3	3,348	7,539	
Michigan	2,093,890	22.2	222,708	47.8	202,296	43.4	19,931	20,857	
Minnesota	1,310,283	20.3	122,823	45.9	100,920	37.8	29,313	14,182	
Mississippi	1,289,600	4.0	1,342	2.5	40,288	76.4	10,102	995	
Missouri	2,679,185	20.1	226,918	42.0	268,188	49.6	41,213	4,331	
Montana (1889)	142,924	31.0	18,851	42.5	17,581	39.7	7,334	549	
Nebraska	1,062,656	18.8	87,227	43.6	24,943	12.4	83,134	4,902	
Nevada	47,355	22.9	2,811	25.8	714	6.6	7,264	89	
New Hampshire	376,530	23.7	45,658	51.1	42,081	47.1	293	1,297	
New Jersey	1,444,933	23.2	156,101	46.4	171,066	50.9	969	8,133	
New York	6,003,174	21.9	609,459	46.2	654,900	49.7	16,426	38,193	
North Carolina	1,617,949	17.3	100,565	35.8	133,098	47.3	44,732	2,630	
North Dakota (1889)	190,983	45.0	17,506	48.5			17,700	899	
Ohio	3,672,329	23.1	405,187	47.7	404,115	47.5	14,852	26,012	
Oregon	317,704	24.7	35,002	44.6	14,243	18.1	26,965	2,281	
Pennsylvania	5,258,113	19.0	516,011	51.5	452,264	45.1	8,714	25,123	
Rhode Island	345,506	15.3	26,975	50.7	24,336	45.8	228	1,654	
South Carolina	1,151,119	6.1	13,384	19.0	54,698	77.6	2,410		
South Dakota (1889)	348,690	20.2	34,888	49.5	9,081	12.9	26,544		
Tennessee	1,767,518	15.0	99,851	37.7	136,594	51.5	23,730	4,799	
Texas	2,235,527	18.8	81,444	19.3	239,148	56.6	99,418	2,165	
Vermont	232,422	17.3	37,992	68.1	16,325	29.3	44	1,424	
Virginia	1,655,980	17.6	113,256	38.7	163,977	56.1	12,275	2,798	
Washington (1889)	357,232	24.6	36,460	41.5	29,844	33.9	19,105	2,553	
West Virginia	762,794	22.4	80,263	46.9	84,467	49.4	4,166	2,145	
Wisconsin	1,693,320	21.9	170,846	46.0	177,335	47.8	9,909	13,132	
Wyoming (1890)	62,555	26.7	8,454	50.6			7,722	530	
Total	61,999,361	19.4	5,190,892	45.1	5,554,414	46.2	1,027,329	271,058	
						8.5		22	
								21,164 ²	

(See next page for Summary).

TABLE XXV. PRESIDENT AND VICE PRESIDENT, 1892—Continued

SUMMARY	STATES		ELECTORS		PRESIDENT		VICE-PRESIDENT ¹		POPULAR VOTE			
	In Union	Voting	Assigned	Voting	Neces- sary for Choice	Cleve- land	Oppo- nents	Stev- enson	Oppo- nents ³	Nearest Oppo- nent	All Oppo- nents ³	Minor- ity
	44	44	444	444	223	277	167	277	167	5,554,414	6,510,353	955,339

¹ Vice-Presidential candidates receiving no electoral votes: Crandall (Tex.), Prohibition; Machette (N. Y.), Socialist Labor.

² Not included in total popular vote.

³ Adding in the Socialist Labor vote (which is not distributed by states) the total is 12,064,767, instead of 12,043,663 as shown in the column of popular votes.

TABLE XXVI. PRESIDENT AND VICE-PRESIDENT, 1896

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			National Demo- cratic ¹	Prohibi- tion ¹	Socialist Labor ¹	Nat'l ^{nal} ²	VICE-PRESIDENT							
	Popula- tion (1890)	Popular Vote	Per Cent of Popula- tion	McKinley and Hobart (N. J.)		Bryan and Sewall (Me.)	Per Cent of Total		Palmer (Ill.)					Levering (Md.)	Machette (N. Y.)	Bentley (Neb.)	Hobart (N. J.)	Sewall (Me.)	Watson (Ga.)		
				Popular Vote	Electoral Vote		Popular Vote	Electoral Vote												Popular Vote	Electoral Vote
Alabama	1,513,401	194,574	12.8	54,737	28.1	---	131,226	67.4	6,464	2,147	---	---	---	11	---						
Arkansas	1,128,211	148,508	13.1	37,512	25.3	---	110,103	74.1	---	893	---	---	---	5	3						
California	1,213,398	297,496	24.5	146,688	49.3	8	144,618	48.6	2,006	2,573	1,611	1,017	8	1	---						
Colorado	413,249	189,819	45.9	26,279	13.8	---	161,269	85.0	1	2,110	160	386	---	4	---						
Connecticut	746,258	174,402	23.3	110,297	63.2	6	56,740	32.5	4,336	1,806	1,223	---	6	---	---						
Delaware	168,493	31,538	18.7	16,883	53.5	3	13,425	42.6	877	353	---	---	3	---	---						
Florida	391,422	46,456	11.8	11,288	24.3	---	32,736	70.5	1,778	654	---	---	---	4	---						
Georgia	1,837,353	163,262	8.8	60,107	36.8	---	94,733	58.1	2,809	5,613	---	---	---	13	---						
Idaho	88,548	29,621	33.4	6,314	21.3	---	23,135	78.1	---	172	---	---	---	3	---						
Illinois	3,826,352	1,089,008	28.4	607,130	55.8	24	464,523	42.7	6,390	9,818	1,147	793	24	---	---						
Indiana	2,192,404	637,124	29.0	323,754	50.8	15	305,573	48.0	2,145	5,323	329	2,267	15	---	---						
Iowa	1,912,297	521,617	27.2	289,293	55.5	13	223,741	42.9	4,586	3,544	453	352	13	---	---						
Kansas	1,428,108	335,787	23.5	159,345	47.5	---	172,915	51.5	1,209	2,318	---	630	---	10	---						
Kentucky	1,858,635	445,956	23.9	218,171	49.9	12	217,890	48.9	5,114	4,781	---	---	12	1	---						
Louisiana	1,118,588	101,046	9.0	22,037	21.8	---	77,175	76.4	1,834	---	---	---	---	4	---						
Maine	661,086	118,504	17.9	80,461	67.9	6	34,587	29.2	1,867	1,589	---	---	6	---	---						
Maryland	1,042,390	250,877	24.0	136,978	54.6	8	104,746	41.8	2,507	6,058	588	136	8	---	---						
Massachusetts	2,238,947	417,367	18.6	278,976	66.8	15	121,385	48.1	11,809	3,060	2,137	---	15	---	---						
Michigan	2,093,890	544,958	26.0	293,582	53.9	14	237,268	43.5	6,968	6,846	294	1,095	14	---	---						
Minnesota	1,310,283	338,540	25.8	193,593	57.2	9	139,735	41.2	---	4,348	954	---	9	---	---						
Mississippi	1,289,600	70,472	5.4	5,123	7.3	---	63,793	90.5	1,071	485	---	---	---	9	---						
Missouri	2,679,185	558,329	20.8	239,333	42.9	---	313,576	56.1	2,363	2,462	595	993	---	13	4						

(Continued on next page)

PRESIDENTIAL ELECTIONS

TABLE XXVI. PRESIDENT AND VICE-PRESIDENT, 1896—Continued

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			National Demo- cratic ¹	Prohibi- tion ¹	Socialist Labor ¹	Nat'l natl ¹	VICE-PRESIDENT		
	Popula- tion (1890)	Popular Vote	Per Cent of Popula- tion	McKinley and Hobart (Ohio)		Electoral Vote	Bryan and Sewall (Neb.)		Palmer (Ill.)	Popular Vote	Popular Vote	Popular Vote	Popular Vote	Republican	Demor- cratic	Populist
				Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total								
Montana	142,924	53,217	37.2	10,494	19.7	3	42,537	79.9	---	186	---	---	---	---	2	1
Nebraska	1,062,656	224,174	21.0	103,064	46.0	8	115,999	51.7	2,885	2,010	---	186	---	---	4	4
Nevada	47,355	10,314	21.7	1,938	18.8	---	8,376	81.2	---	---	---	---	---	---	3	---
New Hampshire	376,530	83,567	22.1	57,444	68.7	4	21,650	25.9	3,420	825	---	228	---	---	---	---
New Jersey	1,444,933	371,047	25.6	221,371	59.7	10	133,695	36.0	6,378	5,617	---	3,986	---	10	---	---
New York	6,003,174	1,421,140	23.7	819,838	57.6	36	551,513	38.7	18,972	16,086	---	17,731	---	36	---	---
North Carolina	1,617,949	330,990	20.4	155,243	46.9	---	174,488	52.7	578	681	---	---	---	---	6	5
North Dakota	190,983	47,379	24.8	26,335	55.6	3	20,686	43.7	---	358	---	---	---	3	---	---
Ohio	3,672,329	1,014,295	27.6	525,991	51.9	23	477,497	47.1	1,858	7,784	---	1,165	---	23	---	---
Oregon	317,704	97,414	30.6	48,779	50.1	4	46,739	48.0	977	919	---	---	---	4	---	---
Pennsylvania	5,258,113	1,194,358	22.7	728,300	61.0	32	433,228	36.3	11,000	20,147	---	1,683	---	32	---	---
Rhode Island	345,506	54,781	15.8	37,437	68.3	4	14,459	26.4	1,466	1,161	---	558	---	4	---	---
South Carolina	1,151,149	68,938	5.9	9,313	13.5	---	58,801	85.3	824	---	---	---	---	---	9	---
South Dakota	348,600	82,950	23.7	41,012	49.5	4	41,225	49.7	---	683	---	---	---	---	2	2
Tennessee	1,767,518	323,796	18.3	149,703	46.2	---	168,847	52.1	2,106	3,140	---	---	---	---	12	---
Texas	2,235,527	526,693	23.5	158,894	30.2	15	361,224	68.6	4,553	1,722	---	---	---	---	15	---
Utah (1896)	210,779	78,119	28.2	13,491	17.3	---	64,007	82.7	21	---	---	---	---	---	2	---
Vermont	332,422	63,831	19.7	51,127	80.1	4	10,640	16.7	1,331	733	---	---	---	4	---	---
Virginia	1,655,980	294,959	17.8	135,388	34.3	---	151,985	52.5	2,127	2,344	---	115	---	---	12	---
Washington	357,232	93,583	26.1	39,153	41.8	---	51,646	55.2	1,668	1,116	---	---	---	---	2	---
West Virginia	762,794	201,768	26.4	105,379	52.2	6	94,488	46.8	678	1,223	---	---	---	6	---	---
Wisconsin	1,633,330	447,063	26.4	268,051	60.0	12	165,349	37.0	4,553	7,799	---	1,311	---	12	---	---
Wyoming	62,555	20,606	32.9	10,072	48.9	---	10,375	50.3	---	159	---	---	---	---	2	1
Total	62,210,140	13,813,243	22.2	7,035,638	50.9	271	6,467,946	46.8	131,529	141,676	---	36,454	---	271	149	27

SUMMARY	STATES		ELECTORS		PRESIDENT		VICE-PRESIDENT		POPULAR VOTE						
	In Union	Voting	Assigned	Voting	Nec- essary for Choice	McKin- ley	Oppo- nents	Hobart	Oppo- nents	Total ³	McKin- ley	Nearest Oppo- nent	All Oppo- nents ³	Plurality	Majority
	45	45	447	447	224	271	176	271	176	13,958,495	7,035,638	6,467,946	6,791,573	567,692	244,065

¹ Vice-presidential candidates receiving no electoral votes: Buckner (Ky.), National Democratic; Johnson (Ill.), Prohibition; McGuire (N. J.), Socialist Labor; Southgate (N. C.) National.

² The votes for the National candidate are not included in the state totals or the national total; they are not so included in the *Statistical Abstract*.

³ Including votes for National Party.

TABLE XXVII. PRESIDENT AND VICE-PRESIDENT, 1900

PRESIDENTIAL ELECTIONS

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			Socialist ¹	Prohibition ¹	Socialist Labor ¹	Populist ¹	United Reform ¹	United Christian ¹						
	Popu- lation (1900)	Popu- lar Vote	Per Cent of Popu- lation	McKinley and Roosevelt (N. Y.)		Electoral ¹ Vote	Bryan and Stevenson (Ill.)		Debs (Ind.)							Woolley (Ill.)	Malloney (Mass.)	Harke- (Pa.)	Ellis (Ohio)	Leonard (Ia.)	Popular Vote
				Popular Vote	Per Cent of Total		Popular Vote	Per Cent of Total													
Alabama	1,828,697	158,942	8.6	55,634	35.0	---	96,368	60.6	11	---	---	---	4,178	---	---						
Arkansas	1,311,564	127,444	9.7	44,770	35.1	---	81,091	63.6	8	---	---	---	972	---	---						
California	1,485,053	302,399	20.3	164,755	54.5	9	124,985	41.3	---	7,572	---	---	---	---	---						
Colorado	539,700	220,665	40.8	93,039	42.2	---	122,733	55.6	4	---	---	---	389	---	---						
Connecticut	908,420	180,140	19.8	102,572	56.9	6	74,014	41.1	---	1,029	---	---	908	---	---						
Delaware	184,735	42,001	22.7	22,535	53.7	3	18,863	44.9	---	57	---	---	---	---	---						
Florida	528,542	39,226	7.4	7,314	18.6	---	28,007	71.4	---	601	---	---	---	---	---						
Georgia	2,216,331	122,736	5.5	35,056	28.6	---	81,700	66.6	13	---	---	---	1,070	---	---						
Idaho	161,772	57,701	35.6	27,198	47.1	---	29,414	51.0	---	---	---	---	4,584	---	---						
Illinois	4,821,550	1,130,873	23.4	597,985	52.7	24	503,061	44.4	---	---	---	---	232	---	---						
Indiana	2,516,462	663,840	26.3	336,963	50.6	15	309,584	46.6	---	9,687	---	---	1,373	---	---						
Iowa	2,231,853	530,189	23.7	307,808	56.1	13	209,265	29.4	---	2,374	---	---	663	---	---						
Kansas	1,470,495	353,766	24.0	185,995	52.6	10	162,601	46.0	---	2,712	---	---	250	---	---						
Kentucky	2,147,174	467,600	21.7	226,801	48.5	---	234,399	50.2	13	---	---	---	3,605	---	---						
Louisiana	1,381,625	67,904	4.9	14,233	21.0	---	53,671	79.0	8	---	---	---	2,017	---	---						
Maine	694,466	105,721	15.2	65,435	61.9	6	36,823	34.8	---	---	---	---	---	---	---						
Maryland	1,188,044	264,288	22.2	136,185	51.5	8	122,237	46.3	---	878	---	---	388	---	---						
Massachusetts	2,805,346	414,697	14.7	239,147	57.8	15	157,016	37.9	---	9,716	---	---	2,610	---	---						
Michigan	2,420,982	544,375	22.4	316,269	58.1	14	211,685	38.9	---	2,826	---	---	903	---	---						
Minnesota	1,751,394	316,311	18.0	190,461	60.2	9	112,901	35.7	---	3,065	---	---	1,329	---	---						
Mississippi	1,551,270	59,103	3.8	5,753	9.7	---	51,706	87.5	9	---	---	---	---	---	---						
Missouri	3,106,665	683,656	22.0	314,092	45.9	---	351,922	51.5	17	---	---	---	1,641	---	---						
Montana	243,329	63,693	26.1	25,373	39.8	---	37,145	58.3	3	---	---	---	1,291	---	---						
Nebraska	1,066,300	241,430	22.6	121,835	50.5	8	114,013	47.2	---	708	---	---	169	---	---						
Nevada	42,335	10,196	24.0	3,849	37.8	---	6,317	62.2	3	---	---	---	1,104	---	---						
New Hampshire	411,588	92,348	22.4	54,798	59.3	4	35,489	38.4	---	790	---	---	---	---	---						
New Jersey	1,883,669	401,206	21.2	221,754	55.3	10	164,879	41.1	---	4,611	---	---	691	---	---						
New York	7,268,894	1,548,006	21.2	822,013	53.1	36	678,425	43.8	---	12,869	---	---	2,081	---	---						
North Carolina	1,893,810	292,672	15.4	133,081	45.5	---	157,752	53.9	11	---	---	---	12,622	---	---						
North Dakota	319,146	57,795	18.1	35,898	62.0	3	29,531	35.5	---	520	---	---	830	---	---						
Ohio	4,157,545	1,035,789	24.9	543,918	52.5	23	474,882	45.8	---	---	---	---	111	---	---						
Oregon	413,536	84,216	20.3	46,526	55.2	4	33,385	39.6	---	4,847	---	---	1,688	---	---						
Pennsylvania	6,302,115	1,173,214	18.6	712,665	60.7	32	424,232	36.2	---	1,494	---	---	275	---	---						
Rhode Island	428,556	56,548	13.1	33,784	59.7	4	19,812	35.0	---	4,831	---	---	2,936	---	---						
South Carolina	1,340,316	50,862	3.7	3,579	7.0	---	47,283	93.0	9	---	---	---	1,423	---	---						
South Dakota	401,570	96,124	23.9	54,530	56.7	4	39,544	41.1	---	---	---	---	---	---	---						
Tennessee	2,020,616	274,153	13.5	123,180	44.9	---	145,356	53.0	12	---	---	---	---	---	---						
Texas	3,048,710	423,706	13.8	130,641	30.8	---	267,432	63.1	15	---	---	---	162	---	---						
Utah	276,749	93,139	33.6	47,089	50.6	3	45,006	48.3	---	209	---	---	106	---	---						
Vermont	343,611	55,785	16.2	42,569	76.3	4	12,849	23.0	---	720	---	---	---	---	---						
Virginia	1,854,184	264,470	14.2	115,865	43.8	---	146,080	55.2	12	---	---	---	---	---	---						
Washington	518,103	107,524	20.7	57,456	53.4	4	44,833	41.7	---	145	---	---	167	---	---						
West Virginia	958,800	220,815	23.0	119,829	54.3	6	98,807	44.8	---	2,006	---	---	866	---	---						
Wisconsin	2,069,042	442,613	21.3	265,756	60.0	12	159,279	35.9	---	219	---	---	---	---	---						
Wyoming	92,531	24,646	26.6	14,482	58.8	3	10,164	41.2	---	7,051	---	---	505	---	---						
Total	74,607,225	13,964,518	18.7	7,219,530	51.7	292	6,358,971	45.5	155	94,768	209,166	32,751	50,232	0	3						

(See next page for Summary)

TABLE XXVII. PRESIDENT AND VICE-PRESIDENT, 1900—Continued

SUMMARY	STATES		ELECTORS		PRESIDENT		VICE-PRESIDENT		POPULAR VOTE						
	In Union	Voting	Assigned	Voting	Neces- sary for Choice	McKin- ley	Oppo- nents	Roose- velt ²	Oppo- nents	Total	Mc Kin- ley	Nearest Oppo- nent	All Oppo- nents	Plurality	Majority
	45	45	447	447	224	292	155	292	155	13,964,518	7,219,530	6,358,071	6,744,988	861,459	474,542

¹ Vice-presidential candidates receiving no electoral votes: Harriman (Cal.), Socialist; Metcalf (Ohio), Prohibition; Remmel (Pa.), Socialist Labor; Donnelly (Minn.), Populist; Nicholson (Pa.), United Reform; Wooley (Ill.), United Christian.

² On September 6, 1901, by the death of McKinley, Roosevelt became President.

³ Popular vote for United Reform and United Christian candidates not collated.

TABLE XXVIII. PRESIDENT AND VICE-PRESIDENT, 1904

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			POP'L. ST ¹	PROHIB. ¹	SOCIAL. ¹	SOC. LAB.
	Popula- tion (1900)	Popular Vote	Per Cent of Popula- tion	Roosevelt and Fairbanks (Ind.)			Parker and Davis (W. Va.)			Watson (Ga.)	Swallow (Pa.)	Debs (Ind.)	Corri- gan (N. Y.)
				Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Popular Vote	Popular Vote	Popular Vote
Alabama	1,828,697	108,845	5.9	22,472	20.6	---	79,857	73.4	11	5,051	612	853	---
Arkansas	1,311,564	116,421	8.8	46,860	40.3	---	64,434	55.3	9	2,318	993	1,816	---
California	1,485,053	331,545	22.3	205,226	61.9	10	89,404	27.0	---	---	7,380	29,535	---
Colorado	539,700	243,687	45.1	134,687	55.3	5	100,105	41.1	---	824	3,432	4,304	335
Connecticut	908,420	191,117	21.0	111,089	58.1	7	72,909	38.1	---	495	1,506	4,534	575
Delaware	184,735	43,875	23.7	23,712	54.0	3	19,359	44.1	---	51	607	146	---
Florida	528,542	39,307	7.4	8,314	21.2	---	27,046	68.8	5	1,605	5	2,337	---
Georgia	2,216,331	130,992	5.9	24,003	18.3	---	82,472	63.7	13	22,635	685	197	---
Idaho	161,772	72,578	44.8	47,783	65.8	3	18,480	25.5	---	353	1,013	4,949	---
Illinois	4,821,550	1,075,669	22.3	632,645	58.8	27	327,606	30.5	---	6,725	34,770	69,225	4,698
Indiana	2,516,462	681,934	27.0	368,289	54.0	15	274,345	40.2	---	2,444	23,496	11,762	1,598
Iowa	2,231,853	485,902	21.7	307,907	63.4	13	149,141	30.7	---	2,406	14,817	14,817	---
Kansas	1,470,495	328,557	22.3	212,955	64.8	10	86,174	26.2	---	6,253	7,306	15,869	---
Kentucky	2,147,174	435,765	20.2	205,277	47.1	---	217,170	49.8	13	2,511	6,609	3,602	596
Louisiana	1,381,625	53,908	3.9	5,205	9.7	---	47,708	88.5	9	---	---	995	---
Maine	694,466	96,037	13.8	64,438	67.1	6	27,648	28.8	---	338	1,510	2,103	---
Maryland	1,188,044	224,224	18.8	109,497	48.8	1	109,446	48.8	7	---	3,034	2,217	---
Massachusetts	2,505,346	445,146	15.8	257,822	57.9	16	165,772	37.2	---	1,299	4,286	13,602	2,365
Michigan	2,420,982	525,099	21.6	364,957	69.5	14	135,392	25.8	---	1,159	13,441	9,042	1,108
Minnesota	1,751,394	292,959	16.7	216,651	74.0	11	55,187	18.8	---	2,103	6,352	11,692	974
Mississippi	1,551,270	58,377	3.7	3,187	5.5	---	53,374	91.4	10	1,424	---	392	---
Missouri	3,106,665	643,861	20.7	321,449	49.9	18	296,312	46.0	---	4,226	7,191	13,009	1,674

(Continued on next page)

PRESIDENTIAL ELECTIONS

TABLE XXVIII. PRESIDENT AND VICE-PRESIDENT, 1904—Continued

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			POP' L. ST. ¹	PROHIB. ¹	SOCIAL. ¹	SOC. LAB.
	Popula- tion (1900)	Popular Vote	Per Cent of Popula- tion	Roosevelt and Fairbanks (N. Y.)			Parker and Davis (N. Y.)			Watson (Ga.)	Swallow (Pa.)	Debs (Ind.)	Corri- gan (N. Y.)
				Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Popular Vote	Popular Vote	Popular Vote
Montana	243,329	64,444	26.4	34,932	54.2	3	21,773	33.8	1,520	335	5,676	208	
Nebraska	1,066,300	225,732	21.1	133,558	61.4	8	52,921	23.4	20,518	6,323	7,412		
Nevada	42,335	12,115	28.6	6,864	56.7	3	3,982	32.9	344		925		
New Hampshire	411,588	90,097	21.8	54,180	60.1	4	33,985	37.7	83	749	1,090		
New Jersey	1,883,669	432,548	22.9	245,164	56.7	12	164,567	38.0	3,705	6,845	9,587	2,689	
New York	7,268,894	1,617,770	22.2	859,533	53.1	39	683,981	42.3	7,459	20,787	36,883	9,127	
North Carolina	1,893,810	208,110	10.9	82,625	39.7		124,121	59.6	879	261	124		
North Dakota	319,146	70,290	22.0	52,535	74.8	4	14,273	20.3	165	1,140	2,117		
Ohio	4,157,545	1,004,668	24.1	600,095	59.7	23	344,940	34.3	1,401	19,339	36,260	2,633	
Oregon	413,536	90,154	21.8	60,455	67.1	4	17,521	19.4	753	3,806	7,619		
Pennsylvania	6,302,115	1,236,738	19.6	840,949	68.0	34	337,998	27.3		33,717	21,863	2,211	
Rhode Island	428,556	68,656	16.0	41,605	60.6	4	24,839	36.2		768	956	488	
South Carolina	1,340,316	55,140	4.1	2,554	4.6		52,563	95.3	1		22		
South Dakota	401,570	101,395	25.2	72,083	71.1	4	21,969	21.7	1,240	2,965	3,133		
Tennessee	2,020,616	242,738	12.0	105,369	43.4		131,653	54.2	2,506	1,906	1,354		
Texas	3,048,710	234,008	7.6	51,242	21.9		167,200	71.4	8,062	4,292	2,791	421	
Utah	276,749	101,626	36.7	62,446	61.4	3	33,413	32.9			5,767		
Vermont	343,641	51,887	15.0	40,459	78.0	4	9,777	18.8		792	859		
Virginia	1,854,184	130,544	7.0	47,880	36.7		80,648	61.8	359	1,383	56	218	
Washington	518,103	145,251	28.0	101,540	69.9	5	28,098	19.3	669	3,329	10,023	1,592	
West Virginia	958,800	240,026	25.0	132,628	55.3	7	100,881	42.0	339	4,604	1,574		
Wisconsin	2,069,042	443,014	21.4	280,164	63.2	13	124,107	28.0	520	9,770	28,229	223	
Wyoming	92,531	30,713	33.1	20,489	66.7	3	8,930	29.1		217	1,077		
Total	74,607,225	13,523,519	18.7	7,628,834	56.4	336	5,084,491	37.6	114,753	259,257	402,460	33,724	

SUMMARY	STATES		ELECTORS			PRESIDENT		VICE-PRESIDENT		POPULAR VOTE					
	In Union	Voting	Assigned	Voting	Necessary for Choice	Roosevelt	Opponents	Fairbanks	Opponents	Total	Roosevelt	Nearest Opponent	All Opponents	Plurality	Majority
45	45	476	476	239	336	140	336	140	13,523,519	7,628,834	5,084,491	5,894,685	2,544,343	1,734,149	

¹ Vice-presidential candidates receiving no electoral votes: Tibbles (Neb.), Populist; Camell (Tex.), Prohibition; Hanford (N. Y.), Socialist; Labor.

PRESIDENTIAL ELECTIONS

TABLE XXIX. PRESIDENT AND VICE-PRESIDENT, 1908

STATES	VOTE CAST			REPUBLICAN			DEMOCRATIC			PROHIB.		SO. LAB.		INDEP.		SOCIAL.	
	Popula- tion (1910)	Popular Vote	Per Cent of Popula- tion	Taft and Sherman (Ohio)		Electoral Vote	Bryan and Kern (Neb.)		Electoral Vote	Watson (Ga.)		Gillhaus (N. Y.)		Hisgen (Mass.)		Debs (Ind.)	
				Popula Vote	Per Cent of Total		Popular Vote	Per Cent of Total		Popular Vote	Electoral Vote	Popular Vote	Electoral Vote	Popular Vote	Electoral Vote	Popular Vote	Electoral Vote
Alabama	2,138,093	103,809	4.8	25,308	24.4	---	74,374	71.6	11	1,568	665	---	---	---	---	1,399	---
Arkansas	1,374,419	152,126	9.6	56,760	37.3	---	87,015	57.2	9	1,026	1,194	---	---	---	---	5,842	---
California	2,377,549	386,597	16.2	214,398	55.5	10	127,492	33.0	---	---	11,770	---	---	---	---	28,659	---
Colorado	739,021	263,877	33.0	123,700	46.9	---	126,644	48.0	5	---	5,559	---	---	---	---	7,974	---
Connecticut	1,114,756	189,999	17.0	112,915	59.4	7	68,255	35.9	---	---	2,380	---	---	---	---	5,113	---
Delaware	292,322	48,024	23.7	25,014	52.0	3	22,071	45.9	---	---	670	---	---	---	---	239	---
Florida	752,619	49,360	6.5	10,654	21.6	---	31,104	63.0	5	---	553	---	---	---	---	3,747	---
Georgia	2,609,121	132,794	5.0	41,692	31.4	---	72,413	54.5	13	16,969	1,059	---	---	---	---	584	---
Idaho	325,594	97,288	29.8	52,621	54.1	3	36,162	37.2	---	---	1,986	---	---	---	---	6,400	---
Illinois	5,638,591	1,154,751	20.4	629,929	54.6	27	450,795	39.0	---	---	29,343	---	---	---	---	34,691	---
Indiana	2,700,876	721,126	26.6	348,993	48.4	15	338,262	46.9	---	---	18,045	---	---	---	---	13,476	---
Iowa	2,224,771	494,770	22.2	275,210	55.6	13	200,771	40.6	---	---	9,837	---	---	---	---	8,257	---
Kansas	1,830,949	375,346	22.2	197,216	52.4	10	161,209	42.9	---	---	5,033	---	---	---	---	12,420	---
Kentucky	2,289,905	490,687	21.4	235,711	48.0	---	244,092	49.7	13	---	5,887	---	---	---	---	4,060	---
Louisiana	1,656,388	75,146	4.5	8,958	11.9	---	63,568	84.6	9	---	---	---	---	---	---	2,538	---
Maine	742,371	106,336	14.3	66,987	63.0	6	35,403	33.3	---	---	1,487	---	---	---	---	1,758	---
Maryland	1,205,346	238,531	18.4	116,513	48.8	2	115,908	48.6	6	---	3,302	---	---	---	---	2,232	---
Massachusetts	3,306,416	456,926	13.5	265,966	58.2	16	155,543	34.0	---	---	4,379	---	---	---	---	10,751	---
Michigan	2,810,173	541,749	19.2	335,580	61.9	14	175,771	32.4	---	---	16,974	---	---	---	---	11,586	---
Minnesota	2,075,708	331,304	15.9	195,843	59.1	11	109,401	33.0	---	---	11,107	---	---	---	---	14,527	---
Mississippi	1,797,114	66,904	3.7	4,363	6.5	---	60,287	90.1	10	---	---	---	---	---	---	978	---
Missouri	3,293,335	715,874	21.7	347,203	48.5	18	346,574	48.4	---	---	4,231	---	---	---	---	15,431	---
Montana	376,053	68,822	18.3	32,323	47.0	3	29,326	42.6	---	---	827	---	---	---	---	5,855	---
Nebraska	1,192,214	266,799	22.3	126,997	47.6	---	131,099	49.1	8	---	5,179	---	---	---	---	3,524	---
Nevada	81,875	24,526	29.9	10,775	43.9	---	11,212	45.7	3	---	905	---	---	---	---	2,103	---
New Hampshire	430,572	89,592	20.8	53,149	59.3	4	33,655	37.6	---	---	---	---	---	---	---	1,299	---
New Jersey	2,537,167	467,198	18.4	265,326	56.8	12	182,567	39.1	---	---	4,934	---	---	---	---	10,253	---
New York	9,113,614	1,638,350	17.9	870,070	53.1	39	667,468	40.7	---	---	22,667	---	---	---	---	38,451	---
North Carolina	2,296,287	252,310	11.4	114,937	45.6	---	136,995	54.3	12	---	---	---	---	---	---	3,877	---
North Dakota	577,056	94,582	16.3	57,680	61.0	4	32,885	34.8	---	---	---	---	---	---	---	378	---
Ohio	4,767,121	1,121,588	23.5	572,312	51.0	23	502,721	44.8	---	---	1,553	---	---	---	---	2,421	---
Oklahoma	1,657,155	255,228	15.4	110,474	43.3	---	122,363	47.9	7	---	11,402	---	---	---	---	33,795	---
Oklahoma (1907)	72,317	12,674	13.3	43,942	60.8	4	24,706	34.2	---	---	---	---	---	---	---	21,734	---
Oregon	672,765	110,889	16.4	62,530	56.4	4	38,049	34.3	---	---	---	---	---	---	---	7,339	---
Pennsylvania	7,665,111	1,267,443	16.5	745,779	58.8	34	448,778	35.4	---	---	36,694	---	---	---	---	33,913	---
Rhode Island	542,610	72,317	13.3	43,942	60.8	4	24,706	34.2	---	---	1,016	---	---	---	---	1,365	---
South Carolina	1,515,400	66,398	4.3	3,965	6.0	---	62,290	93.8	9	---	---	---	---	---	---	100	---
South Dakota	583,888	114,775	19.6	67,536	58.8	4	40,266	35.1	---	---	4,039	---	---	---	---	2,846	---
Tennessee	2,184,789	257,515	11.7	118,324	45.9	---	135,608	52.7	12	---	---	---	---	---	---	1,870	---
Texas	3,596,542	292,472	7.5	65,666	22.5	---	217,302	74.3	18	---	1,634	---	---	---	---	7,870	---
Utah	373,351	108,611	29.0	61,028	56.2	3	42,601	39.2	---	---	---	---	---	---	---	4,895	---
Vermont	355,956	52,654	14.7	39,552	75.1	4	11,496	21.8	---	---	---	---	---	---	---	804	---
Virginia	2,061,612	137,066	6.6	52,573	38.4	---	82,946	60.5	12	---	---	---	---	---	---	255	---
Washington	1,141,990	183,879	16.1	106,062	57.7	5	58,691	31.9	---	---	1,111	---	---	---	---	14,177	---
West Virginia	1,221,119	258,151	21.1	137,869	53.4	7	111,418	43.2	---	---	4,700	---	---	---	---	3,679	---
Wisconsin	2,333,860	454,435	19.4	247,747	54.5	13	166,632	36.7	---	---	11,572	---	---	---	---	28,170	---
Wyoming	145,965	37,669	25.7	20,846	55.4	3	14,918	39.7	---	---	66	---	---	---	---	1,715	---
Total	91,109,542	14,887,133	16.3	7,679,006	51.6	321	6,409,106	43.1	162	28,131	252,633	13,825	---	83,562	---	420,820	---

(See next page for Summary)

TABLE XXIX. PRESIDENT AND VICE-PRESIDENT, 1908—Continued

SUMMARY	STATES		ELECTORS		PRESIDENT		VICE-PRESIDENT		POPULAR VOTE			
	In Union	Voting	Assigned	Voting	Taft	Oppo- nents	Sherman	Oppo- nents	Total	Taft	Nearest Oppo- nent	Majority
	46	46	483	483	321	162	321	162	14,887,133	7,679,006	6,409,106	1,269,900
1 Vice-presidential candidates receiving no electoral votes: Williams (Ind.), Populist; Watkins (Ohio), Prohibition; Muuro (Va.), Socialist Labor; Graves (Ga.), Independent; Hanford (N. Y.), Socialist.												
Alabama	2,138,093		117,879	5.5								
Arizona (1912)	204,354		23,722	11.6								
Arkansas	1,574,449		124,029	7.8								
California	2,377,549		673,527	28.3								
Colorado	799,024		266,880	33.3								
Connecticut	1,114,756		190,398	17.0								
Delaware	202,322		48,693	24.0								
Florida	752,619		51,891	6.8								
Georgia	2,609,121		121,420	4.6								
Idaho	325,594		105,755	32.4								
Illinois	5,638,591		1,146,173	20.3								
Indiana	2,700,876		654,474	24.2								
Iowa	2,224,771		492,356	22.1								
Kansas	1,690,949		365,497	21.6								
Kentucky	2,289,905		453,698	19.8								
Louisiana	1,656,388		79,377	4.7								
Maine	742,371		129,640	17.4								
Maryland	231,981		29,640	12.8								
Massachusetts	3,366,416		488,056	14.4								
Michigan	2,810,173		550,976	19.6								
Minnesota	2,075,708		334,219	16.1								
Mississippi	1,797,114		64,528	3.6								
Missouri	3,293,335		698,562	21.2								

TABLE XXX. PRESIDENT AND VICE-PRESIDENT, 1912

STATES	VOTE CAST		REPUBLICAN		DEMOCRATIC		PROGRESSIVE				Prohibition ¹	Socialist ¹
	Popu- lation (1910)	Popu- lar Vote	Per Cent of Popu- lation	Taft and Sherman ² (Ohio)	Wilson and Marshall (N. Y.)	Electoral ¹ Vote	Per Cent of Total	Electoral Vote	Roosevelt and Johnson (N. Y.)	Per Cent of Total	Electoral Vote	Socialist ¹
				Popular Vote	Popular Vote				Popular Vote			Popular Vote
Alabama	2,138,093	117,879	5.5	9,732	82,438	12	69.9		22,680	19.1		3,029
Arizona (1912)	204,354	23,722	11.6	3,021	10,324	3	43.6		6,949	29.3		3,163
Arkansas	1,574,449	124,029	7.8	24,467	68,838	9	55.5		21,673	17.4		8,153
California	2,377,549	673,527	28.3	3,914	283,436	2	42.1		283,610	42.1	11	23,366
Colorado	799,024	266,880	33.3	58,386	114,232	6	42.8		72,306	27.0		5,603
Connecticut	1,114,756	190,398	17.0	68,324	74,561	7	39.1		34,129	17.9		2,068
Delaware	202,322	48,693	24.0	15,997	22,631	3	46.5		8,886	18.2		623
Florida	752,619	51,891	6.8	4,279	36,417	6	70.2		4,535	8.7		1,854
Georgia	2,609,121	121,420	4.6	5,191	93,076	14	76.7		21,980	18.1		4,806
Idaho	325,594	105,755	32.4	32,810	33,921	4	32.0		25,527	24.1		1,023
Illinois	5,638,591	1,146,173	20.3	253,593	405,048	29	35.3		386,478	33.7		11,960
Indiana	2,700,876	654,474	24.2	151,267	281,890	15	43.1		162,007	24.8		15,710
Iowa	2,224,771	492,356	22.1	119,805	185,325	13	37.6		161,819	32.8		36,931
Kansas	1,690,949	365,497	21.6	74,845	143,663	10	39.3		120,210	32.8		16,967
Kentucky	2,289,905	453,698	19.8	115,512	219,584	13	48.4		102,766	22.7		26,779
Louisiana	1,656,388	79,377	4.7	3,834	60,971	10	76.8		9,323	11.8		11,647
Maine	742,371	129,640	17.4	26,545	51,113	6	39.4		48,495	37.4		5,249
Maryland	231,981	29,640	12.8	54,956	112,674	8	48.5		57,789	24.9		2,541
Massachusetts	3,366,416	488,056	14.4	155,948	173,408	18	35.5		142,228	29.1		3,996
Michigan	2,810,173	550,976	19.6	152,244	150,751		27.3		214,584	38.9	15	12,616
Minnesota	2,075,708	334,219	16.1	64,334	106,426		31.8		125,856	37.7	12	23,211
Mississippi	1,797,114	64,528	3.6	1,595	57,227		88.6		3,645	5.6		27,505
Missouri	3,293,335	698,562	21.2	207,821	330,746	18	47.3		124,371	17.8		2,061
												28,466

(Continued on next page)

PRESIDENTIAL ELECTIONS

TABLE XXX. PRESIDENT AND VICE-PRESIDENT, 1912—Continued

STATES	VOTE CAST			REPUBLICAN		DEMOCRATIC		PROGRESSIVE		Prohibition ¹	Socialist ¹	Socialist Labor ¹
	Popu-lation (1910)	Popu-lation Vote	Per Cent of Popu-lation	Taft and Sherman ² (N. Y.)		Wilson and Marshall (Ind.)		Roosevelt and Johnson (N. Y.)		Chaffin (Ariz.)	Debs (Ind.)	Reimer (Mass.)
				Popular Vote	Per Cent of Total	Electoral ¹ Vote	Popular Vote	Per Cent of Total	Electoral Vote	Popular Vote	Popular Vote	Popular Vote
Montana	376,653	79,826	21.2	18,512	23.3	---	27,941	35.0	4	32	10,885	---
Nebraska	1,192,214	249,208	20.9	54,029	21.6	---	109,008	43.7	8	3,383	10,174	---
Nevada	81,875	20,115	24.5	3,196	15.8	---	7,986	39.6	3	---	3,313	---
New Hampshire	430,572	87,960	20.4	32,927	37.4	---	34,724	39.5	4	---	1,980	---
New Jersey	2,537,167	424,622	16.7	88,834	20.5	---	170,282	41.2	14	2,875	15,900	1,322
New Mexico (1912)	327,301	51,245	15.6	17,900	34.9	---	22,139	43.0	3	---	2,859	---
New York	9,113,614	1,587,983	17.4	455,428	28.7	---	655,475	41.3	45	19,427	63,381	4,251
North Carolina	2,296,287	244,455	11.0	29,139	11.9	---	144,507	59.3	12	1,025	117	---
North Dakota	577,056	86,580	15.0	23,090	26.7	---	29,555	34.1	5	1,243	6,966	---
Ohio	4,767,121	1,037,094	21.7	278,168	26.7	---	424,834	40.9	24	11,511	90,144	2,630
Oklahoma	1,657,155	253,801	15.3	90,786	35.7	---	119,156	46.9	10	2,185	41,674	---
Oregon	672,765	137,040	20.3	34,673	25.3	---	47,064	34.3	5	4,360	13,343	---
Pennsylvania	7,665,111	1,217,502	15.8	273,395	22.4	---	395,619	32.4	---	38	80,915	704
Rhode Island	542,610	77,894	14.3	27,703	35.6	---	30,412	39.0	5	616	2,049	236
South Carolina	1,515,400	50,350	3.3	536	1.0	---	48,357	96.0	9	---	164	---
South Dakota	583,888	116,325	19.9	---	---	---	48,942	42.1	---	---	4,662	---
Tennessee	2,184,789	247,821	11.3	59,444	24.0	---	130,335	52.6	12	825	3,492	---
Texas	3,896,542	301,788	7.7	26,745	8.8	---	219,489	72.7	20	1,698	24,896	430
Utah	373,351	112,385	30.1	42,100	37.5	4	36,579	32.5	---	---	9,023	509
Vermont	355,956	62,841	17.6	23,332	37.1	4	15,354	24.4	---	1,095	928	---
Virginia	2,061,612	136,976	6.6	23,288	17.0	---	90,332	65.9	12	709	820	50
Washington	1,141,990	322,799	28.2	70,445	21.8	---	86,840	26.9	---	9,810	40,134	1,872
West Virginia	1,221,119	268,560	22.0	56,607	21.1	---	113,046	42.0	8	4,534	15,336	---
Wisconsin	2,333,860	390,972	17.1	130,695	32.6	---	164,228	41.0	13	8,586	33,481	522
Wyoming	145,965	42,296	28.9	14,560	34.4	---	15,310	36.1	3	434	2,760	---
Total	91,641,197	15,031,169	16.4	3,483,922	23.1	8	6,286,214	41.8	435	208,923	897,011	29,079

SUMMARY	STATES		ELECTORS		PRESIDENT		VICE-PRESIDENT		POPULAR VOTE			
	In Union	Voting	Assigned	Voting	Wilson	Oppo-nents	Mar-shall	Oppo-nents	Total	Wilson	Nearest Oppo-nent	All Oppo-nents
	48	48	531	531	435	96	435	96	15,031,169	6,286,214	4,126,020	8,744,555
												2,160,194
												2,458,741

¹ Vice-presidential candidates receiving no electoral votes: Watkins (Ohio), Prohibition; Sedel (Wis.), Socialist; Gilhaus (N. Y.), Socialist Labor.
² Sherman died before the election; the eight Republican electoral votes were cast for Butler (N. Y.)

PRESIDENTIAL FEVER—PRESIDENTS OF VILLAGES

PRESIDENTIAL FEVER. A phrase used to denote the eager desire for, and ambition to gain, the presidency of the United States, prevalent among prominent political leaders and "favorite sons" in the several states.

O. C. H.

PRESIDENTIAL PREFERENCE PRIMARY.
See PRIMARY, PRESIDENTIAL PREFERENCE.

PRESIDENTIAL SUCCESSION. The Constitution of the United States provides (Art. II, Sec. i, ¶ 6):

In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice-President; and the Congress may by law provide for the case of removal, death, resignation, or inability, both of the President and Vice-President, declaring what officer shall then act as President; and such officer shall act accordingly, until the disability be removed or a President shall be elected.

In 1792 Congress passed an act providing that in case of the removal, death, resignation, or disability of both President and Vice-President, the president *pro tempore* of the Senate would succeed, and in case there were no president of the Senate, then the speaker of the House. This continued to be the law until 1886 when the law now in force (1913) was enacted. This law provides for the succession of Cabinet officers, constitutionally eligible, in the following order: Secretary of State, Secretary of the Treasury, Secretary of War, Attorney General, Postmaster General, Secretary of the Navy, Secretary of the Interior. There is no provision concerning an election before the ordinary time; and there is no law or precedent enabling us to determine with assurance whether Congress could provide for such an election. There is, however, some reason for thinking that Congress in passing this act of 1886 meant to leave with each Congress the right of deciding whether there should be such an election. In five instances the Vice-President has succeeded to the full power and dignity of the office. No special election has been held. Moreover the law does not seek to define "inability," although it is quite plain that a serious question might arise, as in fact it did during the long illness of President Garfield. Who is to decide whether the inability is such that the next officer in the line of succession should assume the presidential duties?

See PRESIDENT; THIRD TERM; VICE-PRESIDENT.

References: W. W. Willoughby, *Constitutional Law of the United States* (1910), II, ch. lviii; C. S. Hamlin, "The Presidential Succession Act of 1886" in *Harvard Law Review*, XVIII, 182. A. C. McLAUGHLIN.

PRESIDENTS OF THE UNITED STATES. Following is a list of the first 28 Presidents of the United States:

1789 (April 30)–1797 (March 3), George Washington (re-elected, 1792), earlier Commander of Continental Army, planter.

1797 (March 4)–1801 (March 3), John Adams (defeated for second term, 1800), previously Vice-President.

1801 (March 4)–1809 (March 3), Thomas Jefferson (re-elected, 1804), previously Vice-President.

1809 (March 4)–1817 (March 3), James Madison (re-elected, 1812), previously Secretary of State.

1817 (March 4)–1825 (March 3), James Monroe (re-elected, 1820), previously Secretary of State.

1825 (March 4)–1829 (March 3), John Quincy Adams (defeated for second term, 1828), previously Secretary of State.

1829 (March 4)–1837 (March 3), Andrew Jackson (re-elected, 1832), earlier general and Senator.

1837 (March 4)–1841 (March 3), Martin Van Buren (defeated for second term, 1840), previously Vice-President.

1841 (March 4)–1841 (April 4) William Henry Harrison (died in office), earlier general and foreign minister.

1841 (April 4)–1845 (March 3), John Tyler, elevated from Vice-Presidency by Harrison's death.

1845 (March 4)–1849 (March 3), James K. Polk, earlier Speaker of the House.

1849 (March 4)–1850 (July 9), Zachary Taylor (died in office), previously general.

1850 (July 10)–1853 (March 3), Millard Fillmore, elevated from Vice-Presidency by Taylor's death.

1853 (March 4)–1857 (March 3), Franklin Pierce, earlier congressman and military officer.

1857 (March 4)–1861 (March 3), James Buchanan, previously Minister to Great Britain.

1861 (March 4)–1865 (April 15), Abraham Lincoln (re-elected, 1864; died in office), previously lawyer.

1865 (April 15)–1869 (March 3), Andrew Johnson, elevated from Vice-Presidency by Lincoln's death.

1869 (March 5)–1877 (March 3), Ulysses S. Grant (re-elected, 1872), previously general.

1877 (March 4)–1881 (March 3), Rutherford B. Hayes, previously general and governor of Ohio.

1881 (March 4)–1881 (Sept. 19), James A. Garfield (died in office), previously general and Representative.

1881 (Sept. 20)–1885 (March 3), Chester A. Arthur, elevated from Vice-Presidency by Garfield's death.

1885 (March 3)–1889 (March 3), Grover Cleveland (defeated for reelection, 1888), previously governor of New York.

1889 (March 4)–1893 (March 3), Benjamin Harrison, previously Senator.

1893 (March 4)–1897 (March 3), Grover Cleveland (second term).

1897 (March 4)–1901 (Sept. 14), William McKinley (re-elected, 1900, died in office), previously Representative.

1901 (Sept. 14)–1909 (March 3), Theodore Roosevelt, elevated from Vice-Presidency by McKinley's death (elected 1904, defeated for third term, 1912).

1909 (March 4)–1913 (March 3), William Howard Taft (defeated for second term, 1912), previously Secretary of War.

1913 (March 4)–Woodrow Wilson, previously governor of New Jersey.

See EXECUTIVE AND CONGRESS; under PRESIDENT; PRESIDENTIAL ELECTIONS; and Presidents by name. A. B. H.

PRESIDENTS OF VILLAGES. The official title of the chief officer of a village in New York, Vermont, Michigan, Illinois, Wisconsin, and Minnesota. More often the title mayor is used, and in some cases other titles, such as intendant, warden, or chairman of the board of trustees. They are usually elected by popular vote, for a term of one or two years. They preside over the meetings of village councils, have some supervision over other village officers and a more definite responsibility for the enforcement of local police ordinances. In some states there is a tendency to vest them with the special powers of mayors such as the power to veto acts of the councils and to

appoint policemen and minor officials. See VILLAGES, INCORPORATED. Reference: J. A. Fairlie, *Local Government in Counties, Towns, and Villages* (1906), 209-10. J. A. F.

PRESS. See FREEDOM OF SPEECH AND OF THE PRESS.

PRESS, ASSOCIATED. See ASSOCIATED PRESS.

PREVIOUS QUESTION. The previous question was originally a device for suspending debate on a subject of a delicate nature. In Congress, since 1811, the purpose of the motion has been to close debate on the measure under consideration by the House (Rule XVII). It is not used in committee of the whole nor in the Senate. It may be demanded by any member and if ordered by a majority the main question as ordered, whether a single motion, or all the motions required to put the measure through all its stages to final passage, is put to a vote. Forty minutes of debate are allowed whenever the previous question is ordered on a question on which there has been no debate, but if there has been debate, even though brief, before the ordering of the previous question, the ordering of the previous question must be followed by an immediate vote. The forty minutes is equally divided between those favoring the question and those opposing it. In practice the member in charge of a measure brought before the House (see LEADER OF THE HOUSE) and having the floor usually demands the previous question at the end of his hour (see HOUR RULE), unless the measure is being debated under a special order. See PARLIAMENTARY LAW; RULES OF CONGRESS: STATE LEGISLATURE. Reference: A. C. Hinds, *Digest and Manual of Rules* (1908), 607-616. A. N. H.

PRICE, ECONOMIC THEORY OF. Price is value expressed in terms of money. A thing has value when, and only when, more of it is desired than there is to be had. When a great deal more is desired than there is to be had, each unit of it will have a high value, and when there is almost as much as is desired, each unit will have a low value. When there is quite as much as is desired, each unit will have no value; and if there should be a great deal more than is desired, it may even have a negative value and men will pay money to get rid of it. This rule applies to money as well as to everything else.

A thing may be scarce either because nature has supplied very little of it, or because it costs so much to produce it as to discourage production. It may be desired either because it is directly useful, as in the case of consumers' goods, or because it is indirectly useful, as in the case of instruments of production. In the case of an article of consumption, the

desire for each unit tends to grow less intense the more we have of it, for the physiological reason that our capacity for consuming any single article is limited, and the more nearly we reach that limit, the less intense our desire for it becomes. In the case of an agent of production, say a tool, the desire for each unit tends to grow less intense the more we have of it, for the physical reason that, with a given supply of other instruments of production, our ability to use profitably that particular kind is limited, and the more nearly we approach that limit the less profitable each additional unit becomes.

See COST; VALUE.

References: T. N. Carver, *Distribution of Wealth* (1904), ch. i; A. Marshall, *Principles of Economics* (6th ed., 1910), Bk. IV; F. von Wieser, *Natural Value* (1893); C. W. Macfarlane, *Value and Distribution* (1899); J. R. Commons, *The Distribution of Wealth* (1893), ch. i. T. N. C.

PRICES AND CHARGES, REGULATION OF. The guaranties of liberty and property found in the state constitutions and in the Fourteenth Amendment to the Federal Constitution stand in the way of general legislative regulation of prices at which goods shall be sold or the rates at which services shall be rendered (see CONTRACT, FREEDOM OF; LABOR, FREEDOM OF). But those who pursue public callings or devote their property to a public use (see PUBLIC USE), thereby availing themselves of advantages specially conferred upon them by organized society, subject themselves in return to governmental regulation of their rates, charges, and methods of doing business which could not be exercised with reference to private contracts and private property (see POLICE POWER). For reasons which are not the same in each case, the businesses of common carriers in general, and in particular railroad companies, telegraph and telephone companies, hackmen, draymen, bakers, millers, wharfingers, public warehousemen, public ferrymen, and innkeepers have been said to be in such sense public as that they are burdened with duties not resting upon those callings which are strictly private; and therefore they are subject to public regulation which may include regulation of prices and rates (see GRANGER CASES; MUNN vs. ILLINOIS).

Any business which can be carried on only under the grant of a public franchise is necessarily subject to regulation as to prices and charges which may be fixed in the granting of the franchise or, if it involves a monopoly, may be regulated under the general police power (see FRANCHISES, CORPORATION, LEGAL ASPECTS OF). Thus corporations authorized to supply the inhabitants of a city with water, gas, electric light and power, street car service, etc., are subject to regulation as to their rates and charges.

PRIMARY

As between one who holds himself out as pursuing a public calling and one of the public entitled to be served in pursuance of that calling, it may be a judicial question whether the rate or charge in a particular case is reasonable. But the general regulation of rates and charges in such callings is a legislative function, which may be delegated to a commission (*see* INTERSTATE COMMERCE COMMISSION; COMMERCE, GOVERNMENTAL CONTROL OF).

The natural and necessary limitation upon the exercise of the legislative power to regulate prices and rates in cases in which such right of regulation exists is that those engaged in a public calling or who have devoted their property to a public use shall not be deprived of the right to pursue such calling or make a profit out of the business to which their property has been devoted; for to deny a reasonable compensation for services rendered or for the use of property is to infringe the liberty of contract or the essential right to the enjoyment of property. In the case of *Smyth vs. Ames* (169 U. S. 466) the court said:

While rates for the transportation of persons and property within the limits of a state are primarily for its determination, the question whether they are so unreasonably low as to deprive the carrier of its property without such compensation as the Constitution secures, and therefore without due process of law, cannot be so conclusively determined by the legislature of the State or by regulations adopted under its authority that the matter may not become the subject of judicial inquiry.

The reasonableness of the compensation permitted is therefore a judicial question to be determined by reference to the usual profits on property employed in other forms of business, the usual rate of interest realized on property thus invested affording a substantial guide to determine reasonable profits.

See CONTRACT, FREEDOM OF; COMMERCE, GOVERNMENTAL CONTROL OF; DUE PROCESS OF LAW; INTERSTATE COMMERCE LEGISLATION; PUBLIC SERVICE CORPORATIONS; QUASI-PUBLIC CORPORATIONS; TRANSPORTATION, REGULATION OF.

References: *Brass vs. Stoeser*, 153 U. S. 391; *Budd vs. N. Y.*, 143 U. S. 517; *Railroad Com. Cases*, 116 U. S. 307. EMLIN MCCLAIN.

PRIMARY

Definition.—The term “primary” is applied to a party election for the purpose of choosing candidates or delegates to choose candidates to contest in the following regular election. “Caucus” (*see*) and “primary” are sometimes used interchangeably but generally caucus is used to describe a mass meeting of party voters assembled at a particular time and place to choose candidates or delegates, and a primary is a party election held at a particular place between certain fixed hours during which party voters may appear and cast their ballots for candidates or delegates. The term caucus is often loosely used and broadly applied to a wide variety of political conferences; primary has an increasingly definite use in connection with primary or preliminary elections.

Historical Growth.—Various methods of placing candidates for office in nomination have been employed in the United States. Originally candidates for local office were presented to the electorate upon their own announcement, upon the endorsement of mass meetings, or upon nomination by informal caucus. Candidates for state office were generally named by a legislative caucus composed of members of the party in the legislative body or later by a “mongrel caucus” in which legislators and other representatives of the party united in the selection of nominees. In the national field candidates for President were named by the congressional caucus. After a long struggle the legislative caucus and the congressional caucus were overthrown, and the system of choosing candidates in conventions composed of delegates specially chosen for that purpose

came into vogue. By 1840 the convention system had generally been adopted for national and local offices. By 1866 abuses in the selection of delegates had begun to appear and this led to legal regulation of nominations in the interest of the purity of elections. This process continued slowly until about 1890, and then very rapidly until the close of the nineteenth century. By that time party elections were generally placed under practically the same legal restrictions and guaranties as regular elections. Dissatisfaction with the workings of the delegate system gave rise to another movement, and about 1900 the direct nomination system began to be generally used, although it had been employed as early as the sixties on a small scale, and in the nineties on an increasing scale.

Convention System.—At the present time there are four principal methods of nominating candidates. These are: (1) the delegate convention system; (2) the direct primary; (3) the non-partisan primary; (4) nomination by petition only. Under the first of these systems, the delegate convention plan, candidates for public offices are selected by conventions which are made up of delegates who have been selected either by other conventions in smaller districts, or directly by the voters in small districts. Candidates for President of the United States are named by national conventions which are composed of delegates chosen in part by state conventions which are composed of delegates chosen by county conventions, which are composed of delegates chosen by towns or wards either in caucuses or pri-

maries. This system of indirect choice has been accompanied by many abuses and is fast disappearing. For choice of state and local offices it is found in most of the northeastern and some of the central states, but during the last ten years has rapidly been supplanted by the direct primary. The convention plan was so indirect and complicated as to make effective popular action difficult. Fraud and corruption also crept into its operations and rendered the system generally unpopular. It came to be regarded as one of the instruments of control in the hands of the machine (*see*) and the boss (*see*), and as one of the elements in the maintenance of the spoils system (*see*).

Direct Primaries.—Under the system of direct nomination candidates are selected by direct vote of the party. In a number of states provision is made for direct vote in each party on choice for presidential nominee (*see* PRIMARY, DIRECT; PRIMARY, PRESIDENTIAL PREFERENCE). It is generally recognized that the direct primary makes it possible for the voter to exercise more complete control over party nomination and makes domination by the party machine and the boss more difficult than under the delegate system.

Non-Partisan Primary.—The non-partisan primary has been developed in connection with the commission form of government as worked out in Des Moines, Iowa, and other cities. Under this system a preliminary election is held in which all voters may participate. The highest two candidates for mayor and the highest eight candidates for the four positions of commissioner, are eligible for the second and final election. No party emblem, circle (*see* PARTY CIRCLE) or designation is permitted in connection with the name of any candidate either in the primary or first election or in the second election. In some cases as in Berkeley, California, this plan has been so modified as to provide that if any candidate receives a majority of all the votes cast in the first election, the second election shall then be unnecessary as far as that office is concerned. In other cases the system of preferential voting has been applied. The purpose of this system is to eliminate the national political parties from local elections. Thus far the results have been satisfactory and city elections under this system have been conducted on a non-partisan basis (*see* VOTE, PREFERENTIAL).

Nomination by Petition Only.—The system of nomination by petition only is also applied solely to local elections. This plan provides that nominations for office shall be made by petition only and that no party designation of any sort shall be attached to the name of the candidates. This system has been adopted in Newport, R. I., in Boston, and in other cities. It is also employed in the selection of judges and of school officials in certain states in accordance with recent laws. The purpose of this plan is to prevent party nominations and

party elections in local, school or judicial affairs (*see* PETITION, NOMINATION BY).

A modification of these last two systems is found in Wisconsin. The law of this state (1907, ch. 670) permits of a system under which nomination may be made by petition only, but after the nominations are filed upon petition of five per cent of the electors, a preliminary election may be called at which the two candidates for each office will be selected and made the candidates at the final election.

Test of Party Affiliation.—As the party primary becomes more and more like an election the question of a satisfactory legal test of membership in a particular party becomes more important. Originally, and still to some extent, in the South, this was a subject over which the party authorities had complete control. In recent years, however, the tendency has been to prescribe tests of party membership in the primary law. The most frequent test required is an expression of intention to support the party candidates in the ensuing election. Sometimes this is coupled with a declaration of past support of or affiliation with the party. In some cases the voter must, if challenged, merely answer affirmatively the question "Are you a Republican?" (or a Democrat, etc., as the case may be). In other instances, as in Illinois, it is further provided that no one may take part in a primary if he has participated in the primary of another party within a period of two years.

A number of states have provided for a system of party registration corresponding somewhat to the registration in connection with the general election. At the time of such registration the voter is given an opportunity of declaring his party affiliation, if any, and a list of party voters is then made up from these indications of preference. This list then serves as the registration list for the ensuing primary election. This system has been longest in operation and most completely worked out in New York state.

In a few instances the party test has been abolished altogether. In California the law of 1899 contained a provision which enabled the voter to cast a ballot for either party without divulging his party preference. This clause was subsequently declared unconstitutional as was a similar provision in the Oregon law of 1901. In the Wisconsin Law of 1903 absolute secrecy of the ballot is secured and the voter may vote for candidates for which ever party he may choose. He cannot vote with both parties at the same time however. This is called the "open primary," as distinguished from the "closed primary" where the party test is applied.

In the so-called "non-partisan primaries" which are found in connection with the commission form of government (*see* COMMISSION SYSTEM) and which are really not primaries at all, there is no test of party allegiance or

affiliation. An elector may vote for any candidate for the nomination regardless of party ties. It is clear in this case, however, that the design of the law is to eliminate parties altogether.

Judicial Interpretation of Primary Laws.—

On the whole, the courts have sustained the constitutionality of primary legislation of the last forty years, with few exceptions. In California and in Illinois considerable difficulty has been experienced in securing the passage of a law that would meet the approval of the courts, but elsewhere the judicial veto has been very sparingly exercised. In no field of legislation has the judiciary shown itself more friendly to experiment than in the regulation of political organization. There has been unusually little of the "law's delay" to hinder the advance of primary legislation. The objection of special legislation, of unfair discrimination between political parties, of interference with the freedom and equality of elections, and of unwarranted invasion of the rights of political parties as voluntary associations, have all been met and overruled. The theory of the party as a voluntary association has been completely overthrown by the contrary doctrine that the party is in reality a governmental agency, subject to legal regulation and control. The element of public concern in the making of nominations has been strongly emphasized, and the right of the legislature to make reasonable regulations to protect and preserve the purity and honesty of elections has been vigorously asserted. The police power has been invoked against the unregulated party. The absence of any constitu-

tional prohibition or regulation has been advanced in behalf of the law-making body of the state, and made a part of the general argument in behalf of the laws attacked. And finally the privileged position of the party upon the ballot, under the official ballot system, has been used as a means of justifying all manner of restraint and regulations in return. As Justice Holmes said, "The legislature has a right to attach reasonable conditions to that advantage, if it has a right to grant the advantage."

See BALLOT; BALLOT, AUSTRALIAN; CAUCUS, LEGISLATIVE, FOR NOMINATION; CONVENTION, POLITICAL; NOMINATING SYSTEMS IN THE UNITED STATES; PARTY, PLACE AND SIGNIFICANCE OF; PRIMARY, DIRECT.

References: C. E. Merriam, *Primary Elections* (1908); Library of Congress, *List of References on Primary Elections* (1905); F. W. Dallinger, *Nominations for Elective Office in the U. S.* (1897); E. C. Meyer, *Nominating Systems* (1902); P. S. Reinsch, *Readings on Am. State Governments* (1911), 383-421; N. A. Schaffner, "Primary Elections" in Wisconsin Library Commission, *Comparative Legislation Bulletin*, No. 13 (1908); New York State Library Commission, *Legislative Bulletin, Direct Nominations* (1906); *Conference on Practical Reform of Primaries* (1898); Connecticut Commission on Laws Relating to Direct Primaries and Corrupt Practices, *Report*, 1907; Michigan Pol. Sci. Assn., *Publication*, VI, No. 1 (1905); New York State Commission on Election, *Report*, 1909; R. H. Fuller, *Government by the People* (1908).

CHARLES EDWARD MERRIAM.

PRIMARY, DIRECT

Definition.—A direct primary is a party election at which candidates for nomination are chosen directly by the party voters. It is generally contrasted with the delegate or convention system under which the party voters choose delegates, who, in turn, select the party candidates. By the one plan the voter selects his choice for nomination directly, by the other plan indirectly.

Extent of Use.—The direct method of selecting candidates was used as early as the sixties in Pennsylvania and was known as the Crawford county system. It was employed for many years in various counties and cities under rules adopted by one party or the other in the central, southern and western states, but did not come into general use until the nineties. The direct primary was adopted by a legislative act instead of by party rule in Minnesota in 1899, but applied only to one county (Hennepin). The first state to adopt the system by legal enactment for all nominations was Wisconsin in 1903. The system spread over

the United States with very great rapidity. Jan. 1, 1914, complete state-wide systems of direct nominations had been established in 32 states, while in five others the direct primary was established by party rule. In addition, two states, North Carolina and Maryland, had incomplete systems, leaving only nine states without any system of state-wide direct primary.

Reasons for Adoption.—The direct primary was the outgrowth of widespread and deep-seated dissatisfaction with the convention (see CONVENTION, POLITICAL) system. It was a result of a desire to substitute for this discredited method some more effective way of nominating candidates. Under the worst conditions the delegate system was accompanied by bribery, trickery and political trading on a large scale. Under the most favorable circumstances the delegate system was so indirect in its methods that the results obtained were frequently wholly unrepresentative of the will of the rank and file of the party. It was

generally felt that political bosses and machines were fostered under a system which offered such large opportunities for their characteristic methods of intrigue and corruption, and that the introduction of more simple nomination machinery would increase the chances for a genuinely representative selection by the people of the party. Widespread disclosures of corruption within the ranks of the ruling political oligarchies intensified popular distrust of them and aroused the desire to secure a really representative form of party government. It was argued that the direct primary would prevent bribery, trickery and corrupt deals in connection with the delegates and convention, and would afford the party electorate an opportunity to express its will more directly and effectively. It was asserted that greater interest in party nominations would be shown by the electorate and that the chance of selecting honest and capable nominees would be materially increased. The burden of the argument was that the control of the rank and file of the parties over the affairs of the party would be restored, or at least an opportunity opened for party democracy. The disrepute into which party management and machines had generally fallen added force to these contentions and hastened the transformation of the party nomination system within the limits of a decade.

Practical Operation.—In the main the results obtained under the direct primaries have been satisfactory to the advocates of the change. The vote cast at the primaries has been larger than under the delegate system as a rule, and the greater interest shown within the party has tended to make party rulers more amenable to the will of the party. Notable illustrations of the effectiveness with which the direct primaries may be employed are found in the nomination of Governor Bass in New Hampshire, and of Governor Johnson in California in 1910, and in numerous other points since the adoption of the system. The apprehensions expressed by the opponents of the plan when the subject was under discussion have not been realized, as for example, the avalanche of candidates, the danger of party disruption or destruction, geographical discrimination especially on the part of urban districts, the undue influence of the press, prohibitive cost to the candidates.

Pre-Primary States.—Some tendencies, unforeseen either by the friends or foes of the direct primary have developed in the practical operation of the system. The tendency to hold preliminary or pre-primary caucuses is strong. A powerful combination of "bosses" may make up a nomination "slate" or list of candidates, which is not easily assailed by the unorganized mass of the party. In theory, any one is free to oppose it, but in practice an attack is futile unless an overpowering public sentiment is aroused. It is contended, however, that slates

so made are more easily broken under the direct primaries than where delegates are selected. It is said that the voters become more independent and are often disposed to "smash the slate in whole or in part." The primary amounts to a referendum on the caucus nominees, and the elimination of the unfit is made easier than under the convention method, where in many instances the candidates for the minor, and sometimes for the major, offices are not even mentioned in advance of their selection by the convention. In any event the party leaders are made directly responsible to the party voters for the principles and the personal qualities of the candidates presented. If these nominees are unworthy, the voters have an opportunity to reject them and thus to discredit the slate makers. The caucus always runs the risk of repudiation by the party electorate.

Party Harmony.—The prediction that the direct primary would "destroy the party" was obviously untrue, since party organizations continue to exist in flourishing condition under the new system. The "party suicide," which some political leaders anticipated would follow the passage of direct primary laws, is yet to occur. Some complaint has been made that party dissensions are more frequent than before and that factional jealousy and bitterness within the ranks are more common than in the days when the masters of the convention "harmonized" the ticket. It is doubtful, however, whether there really are more factional disturbances of a personal nature under the new system than under the old. Many a party feud dated from some ugly fight regarding the seating of delegates or the general conduct of the convention. The delegate that was thrown out of the convention or the candidate that was beaten by unfair tactics very often developed political hatred of a most bitter and enduring type.

Influence of Press.—It is often charged that the press becomes a more important factor under the direct primary system than under the delegate plan. Since the candidate can not meet personally all of his constituents the attitude taken by the great organs of publicity seriously affects the prospects. It may happen that the press is dominated by a factional or other special interest, and hence that a particular candidate or group of candidates may not receive proper publicity. The general dictation of nominations by a prejudiced or venal press, would of course be a political calamity of serious proportions. But the danger to the cause of good government from this source is not, after all, as great as it is frequently presumed. A newspaper cannot continuously influence large masses of voters unless the community has come to believe that this journal is, on the whole, honest in its intentions, clear in its vision, and temperate in its judgment of men and measures. Insincere appeals to

popular passion and cunningly concealed pleas for special interest may bring temporary success, but in the long run newspapers of either type will not possess the confidence of the electorate and will not enjoy a wide circle of influence.

Publicity Pamphlets.—A novel publicity feature in connection with primary elections was established in Oregon and has since been adopted by a number of other states. According to the Oregon plan each candidate may have printed a cut of himself and a statement of the platform or principles upon which he stands, together with similar statements from other candidates, in a publicity pamphlet for a nominal sum. This pamphlet is printed and distributed by the state to each voter prior to the primary. In this way the candidates are given widespread publicity at a nominal expense and at the same time all voters are given the information regarding the several candidates in compact form.

Character of Nominees.—That the demagogue will on the whole, fare better before the party voters than before the representatives of the voters, is an assertion that can not be established. The "sober second thought" of the convention can scarcely be assumed to have unerringly fixed upon the ideal candidate. Also it may be conceded that occasionally a convention nomination was given to a man who would not have been willing to run the gauntlet both at the primary and at the election. On the whole, the process of "deliberation" in a convention tended to produce candidates who were not sufficiently in agreement with the conscience, sentiment and judgment of the masses of the party. One of the purposes of the direct primary was to establish closer relations between the people and their representatives.

Platform Making.—Many interesting problems arise in the practical application and development of the primary system. For example: How shall the party platform be framed? What majority shall be required for nomination? How far shall direct primary be extended to the choice of national officials on the one hand, or of city officials on the other hand? In local districts where direct primaries were first tried the question of the platform did not occasion serious trouble. In larger districts, however, the question became more important, for there are occasionally serious divisions of opinion in state elections, and for such emergencies provision must be made in the law.

In Wisconsin the state platform is made by a candidate's convention. This body is composed of all the party candidates for state offices and for the legislature and also the party's hold-over members of the state senate. In this way members both of the legislative and executive departments may be committed to a definite policy and their

platform formally presented to the voter. In Missouri the law provides for the formulation of the platform by the state central committee acting with the party nominees for state office, for Congress and for the legislature. In Oregon provision is made for declaration at the time of filing the petition of the principles upon which the candidate stands in not exceeding 100 words, and 12 words are permitted to appear upon the ballot. But where no legal provision is made for such a declaration upon the ballot, the candidate may, of course, make a statement which will serve as the basis of his campaign. In Texas it is provided that no convention shall place in the platform or resolutions of the party it represents any demand for specific legislation unless the demand for such specific legislation shall have been submitted to a direct vote of the people, and shall have been endorsed by a majority vote of all the votes cast at the primary election of the party.

The shaping of the platform by the candidate himself seems, all things considered, most likely to survive. Where there is a serious difference of opinion, the platform is likely, under any system, to be shaped by the strongest faction and will be practically the program outlined by this faction in its primary fight. Generally issues are as clearly and as sincerely defined during the primaries in this way as they would be in a convention framed platform. For it should not be forgotten that the average convention platform was verbose and perfunctory and often served no real purpose, since the elections are usually conducted on the basis of national issues. Where there is no living issue of a local character the lack of a platform is not serious.

Majority Necessary for Nomination.—Under a system which provides for the selection of candidates by direct vote the percentage of a total vote necessary for a choice is subject to considerable importance. The common plan is to require merely a plurality. In the southern states, however, a clear majority is often required, and if no candidate receives a necessary vote, a second primary is held in which the two leading candidates alone participate. A modification of the plurality system is the minimum percentage plan now used in Michigan where 40 per cent of the total vote is required for governor and lieutenant-governor; in Iowa where 35 per cent is necessary for a choice; and in a few other states. In these cases nomination by convention is the alternative. This plan is open to the objection that the leading candidates at the polls may be beaten in a convention and that dummy candidates may be put up for the purpose of so dividing the vote that choice must be made by the delegates. The lower the percentage, however, the less is the likelihood that choice will not be made in the primaries and the less the opportunity for such manœuvres.

In some quarters a system of preferential voting has been advocated. Under this plan the voter indicates his first and second choice for the given office, and in case no candidate receives a majority of first choice the lowest candidate is dropped and his second choices are then distributed. This system has been adopted in Wisconsin, Idaho, North Dakota, and for local elections in other states. This preferential system is designed to obviate the necessity for a second ballot and at the same time to prevent the choice of a candidate by plurality only. It is also intended to meet cases where a majority as to policy is divided as to a candidate and is likely to be overriden by a minority united both on a policy and on a candidate. Thus an anti-machine group may muster 50,000 votes as against 30,000 machine votes, but if the reform voters are divided between two candidates the solid vote of the "organization" will present the candidate of that faction in nomination (see VOTE, PREFERENTIAL).

In the South the second primary does not occasion any particular difficulty. As there is really but one party and as the regular election is generally perfunctory the second primary is usually well attended. In fact this second primary when held is in reality the election. In other sections of the country where the biparty system is in vogue, it is not likely that second primaries would prove practicable. The number of elections is already so great that an additional primary would probably be poorly attended and the results unsatisfactory. In many instances the second primary would involve the holding of two primaries and an election in the spring followed by two primaries and an election in the fall.

 **Direct Primaries and Federal Officers.**—The relation of the direct primary to national elections has recently become an important question. The choice of members of the House of Representatives, of the United States Senate, of presidential electors, and of delegates to national conventions is affected by the primary movement. Selection of members of the lower house has ordinarily been provided for in direct primary laws without much discussion. In a number of states the primary law also requires the nomination of Senators in the party primary and provides for pledging the candidates for the state legislature to abide by the result of the vote. In other states, notably in Oregon, the names of candidates so chosen are placed upon the ballot and the candidate receiving the highest popular vote is elected by the legislature. This situation presents some difficulties involved in binding the legislator to vote for the candidate of his party who receives a plurality in the general election. These difficulties have been overcome, however, by pledging the candidates for the legislature in advance to support that candi-

date for senator who receives the highest vote in the election. In Oregon, in 1910, Mr. George E. Chamberlain, a Democrat, received the largest vote in the election and was selected as United States Senator by a Republican legislature.

The laws of a number of states provide for the choice of delegates to national nominating conventions by direct vote. In this movement Wisconsin was the pioneer and it seems probable that this method will be generally adopted. The next step is a provision for a vote in each party on the question of the party nominee for the office of President, with the understanding that the state delegates to the national convention shall be bound by this expression of party preference. In November, 1910, Oregon adopted a primary law extended to presidential nominations.

By Jan. 1, 1913, the presidential preferential primary was in operation in 11 states (see PRIMARY, PRESIDENTIAL PREFERENCE). Whether the direct vote system will be carried so far as to provide for the choice of a President by popular vote of the entire party is problematical. It seems likely, however, that in the near future all states will choose their delegates to the national convention by direct primary and that these delegates will be instructed by the popular vote of the state or district upon the question of presidential nomination. Under such circumstances the nomination of a minority candidate, even though he might possess a majority of the delegates, would be exceedingly unpopular and politically inexpedient. Hence the tendency would inevitably be toward accepting the popular vote on the question of a party nomination for President as decisive. This may be checked by consideration of the federal character of the government and the fact that electors are chosen by states rather than by popular vote of the country at large. Although little discussed at the present time it is clear that this question must very soon become a subject of great importance and that significant developments may be expected in this field.

In the case of municipal elections the direct primary has, in some cases, been abandoned and a system either of non-partisan primaries or of nomination by petition only, has been adopted (see PRIMARY). This movement is due to a desire to eliminate national party politics including partisan primaries, from local elections.

Direct Primary and Short Ballot.—A study of primary election legislation and practice shows that the best results can not be obtained until other and important political changes have been made. In the first place it is not likely that the direct nomination system will achieve its full results until the number of elective offices is materially reduced. If thirty or forty positions are to be filled at one primary, it is not probable that an intelligent

choice will be made from the great number of candidates presented. The variety of qualifications to be considered in connection with the several offices, the number of candidates, the framing of deals and slates, make careful selection difficult. A great array of elective public offices means control by the few rather than by the many. Amenability to popular control will be better secured by reducing the number of offices so that the requirements of the candidates for each such position and the policies to which they are committed may be carefully scrutinized and compared.

The simplification of the machinery of government (see *BALLOT; BALLOT, SHORT*) may most easily be made by eliminating administrative offices from the elective list. The true principle is that the people should choose all officers connected or concerned with the formulation of public policies. They need not choose men engaged in the carrying out of policies. Policy framing or legislation is a matter upon which there may and will be differences of opinion; and men entrusted with the work of drawing up such plans must be elected by and made responsible to the people. Laws should not be administered in a partisan way however, but with efficiency and justice. Administration requires technical skill and partisanship is destructive of its best development. If any administrative officers are to be selected by popular vote the number should be confined to the chief executive officers, such as the mayor and the governor.

Direct Primary and the Merit System.—Another requisite to the complete success of the direct nominating plan is the further extension and more vigorous enforcement of the merit system (see). As long as an army of officials can be thrown into the field in support of a particular slate, it will be difficult for a candidate outside the organization to succeed. The honest and intelligent application of the merit principle to administrative appointments reduces the number of workers under the control of a faction or organization and makes the support of a slate far less formidable. Hence the mobilization of an army for effective use in a primary campaign becomes far more difficult and the opportunities for success on the part of the opposition correspondingly greater. If the group in power centers around some principle or policy it will continue to be powerful and effective in the primaries under the merit system. But if the chief element of cohesion in this group was patronage it will be far less vigorous than before.

Direct Primary and Party Circle.—Another essential change is the return to the original form of the Australian ballot. The party emblem, the party circle (see) and the party column have nothing to do with the Australian ballot (see *BALLOT, AUSTRALIAN*) and were engrafted on the system by American legislators in the haste which attended the original

adoption of these laws. The secrecy of the ballot was secured, but the party managers obtained the concession of arranging party candidates in columns and permitting the voters to select a list of candidates by marking in the party circle. This mechanical arrangement places a premium upon indiscriminating voting and often results in the election of unworthy and unfit candidates by sheer advantage of position upon the ballot. If the head of the ticket is elected the others are likely to be carried along with the leader regardless of their own merits. The knowledge that candidates, when nominated, will be placed under the protection of the emblem or the circle, makes the party, especially in districts where it is strongly in a majority, less careful in its choice of candidates than would otherwise be the case. Ballot reform is therefore a necessary accompaniment of primary reform. The ballot in the regular election should be made up in the same form as the ballot in the primary election with the party designation after the name of the candidate.

See *BALLOT; BALLOT, AUSTRALIAN; BALLOT, SHORT; CANDIDATE; CAUCUS; CONVENTION, POLITICAL; NOMINATING SYSTEMS; NOMINATION OF PRESIDENT; PRIMARY*.

References: E. C. Meyer, *Nominating Systems* (1902); C. E. Merriam, *Primary Elections* (1908); Library of Congress, *List of References on Primary Elections* (1905); H. J. Ford, "Direct Primary" in *North Am. Rev.*, CXC (1909), 1-14; C. A. Beard, *Am. Gov. and Politics* (1909), 685; M. A. Schaffner, "Primary Elections, 1908" in Wisconsin, *Comparative Legislative Bulletin*, No. 13 (1908); C. L. Jones, *Readings on Parties and Elections* (1912), 57-79; R. Metcalf, *Direct Primary Legislation* (1907); A. H. Tuttle, "Limitations on Power of Legislature to Control Political Parties and their Primaries" in *Mich. Law Rev.*, I (1906), 466-95; J. D. Verplank, "A Problem of Primaries" in *Am. Acad. of Pol. and Soc. Sci., Annals*, XXVIII (1906), No. 3, 84-94; E. Freund, *The Police Power* (1904), § 483; L. E. Aylesworth, "Primary Elections" in *Am. Pol. Sci. Rev.*, II (1908), 578-585; F. R. Mechem, "Constitutional Limitations on Primary Election Legislation" in *Mich. Pol. Sci. Asso., Publications*, VI (1905), No. 1, 125-149.

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PRIMARY PRESIDENTIAL PREFERENCE. Owing to a widespread belief that the system of choosing delegates to national political conventions by local or state conventions does not ordinarily reflect the real preference of the majority of the voters, several states have passed laws under which the delegates are chosen directly by the party voters in official primaries. The difficulties of the system are those of all primary nominations and particularly of state-wide nominations: (1) it is hard effectively to prevent members of

one party from voting on some terms or pretense in the primaries of the other and thus swamping the legitimate majority; (2) the ordinary precaution is that all the caucuses shall take place at the same time, and that the voter shall declare when he asks for a ballot with what party he means to vote; (3) this involves in some statutes legal definitions of what constitutes membership in a party, such as having voted with it at the last election, or having voted for a majority of its candidates, as in Pennsylvania. Some states require a pledge that the voter will support the man who gets the primary nomination.

Until 1912, in the few states that had a primary for delegates to the national conventions, the district delegates were chosen by districts, the delegates at large by a state convention. In that year, however, various attempts were made to choose the delegates at large by a general popular vote, just as presidential electors are chosen. In California a new statute was passed in 1912, with the support of all parties, for the choice of the whole delegation to the national conventions by general state vote of the members of each party. Two of the delegates thus chosen to the Republican national convention were thrown out, on the ground that in the district in which they lived, there were more votes for another candidate than for the men living in that district who got the majority of the state vote. In Massachusetts there was provision for not only choosing the eight delegates at large by a general state vote; but also for the expression of a preference for the candidates expected to come before the national convention for nomination. Through a confused and clumsy primary law the result was the choice of eight Roosevelt delegates, and an expression of preference of the majority of voters for the nomination of Taft.

The California votes were thrown out in the Chicago Republican convention because the California law was considered void as against a conflicting rule of the Republican national committee. If this principle is correct it applies to all attempts by the states to throw legal safeguards around their choice of delegates to national conventions. In July, 1912, a case was brought from Kansas before the Supreme Court of the United States which raised the point of the authority of state legislatures to regulate the choice of delegates whose function was confined to national affairs. The case was given a special hearing by Justices Pitney and Vandevanter who maintained that the state legislatures have no authority to intervene.

Growth.—In November, 1910, Oregon adopted the presidential preference plan; in 1911, four states followed—North Dakota, Nebraska, Wisconsin and New Jersey. In the spring of 1912 it was established in half a dozen of the other states—California, Illinois, Mary-

land, Massachusetts, Michigan, and South Dakota—and subsequently at the November election it was submitted under the initiative to the voters of Montana. In Michigan, on account of the constitutional provision enabling new legislation to go into effect only after 90 days, the preferential primary law could not control the selection of delegates to the national conventions of 1912. In 1913 the presidential preference primary was adopted by Iowa, Minnesota, New Hampshire, Ohio, and Pennsylvania. In the New York State Republican Convention of 1913 a resolution was passed favoring choice of delegates in each state in the manner preferred by the Republican voters of that state.

See CONVENTION, POLITICAL; CREDENTIALS OF DELEGATES; NOMINATING SYSTEMS IN THE UNITED STATES; NOMINATION OF PRESIDENT; PRIMARY; PRIMARY, DIRECT.

References: A. B. Hart, "The Direct Primary vs. the Convention" in *Acad. of Polit. Sci., N. Y., Proceedings*, III (Jan., 1913), 210-219; Republican Campaign Committee, *Statement* (1912).
A. B. H.

PRIMARY SCHOOL. See **SCHOOL, PRIMARY.**

PRIME MINISTER. The office of prime minister is a development of the cabinet system that was slow in obtaining official recognition. Statutory recognition it has not yet received. When the term was first applied to the head of the Cabinet has not been determined. Constitutional objection was taken to Walpole's use of the term, and North, to the end of his career, deprecated its use. Gladstone once explained as follows:

Departmentally, the Prime Minister is no more than the first named of five persons, by whom jointly the powers of the local treasurership are taken to be exercised. He is not their master, or otherwise than by mere priority their head, and he has no special function or prerogative under the formal constitution of the office. He has no official rank except that of privy councillor. Eight members of the Cabinet, including five secretaries of state and several other members of the Government, take official precedence of him. His rights and claims as head of the Administration are nowhere recorded. He is almost if not altogether unknown to the statute law.

The first traceable use of the term prime minister in a state document was in the preamble to the Treaty of Berlin of 1878. Therein Beaconsfield was described as "First Lord of Her Majesty's Treasury, and Prime Minister." The next official use of it was in the Court Circular for March 3, 1894, which announced that the Queen had offered to Rosebery the "post of Prime Minister," vacated by Gladstone. Gully, speaker from 1895 to 1905, is said to have been the first to use it from the chair; and it was not until May, 1904, that it appeared on the "order paper." It was then used in a motion that in the opinion of the House it was unnecessary to discuss a

declaration that the prime minister—Balfour—had made with regard to the fiscal question at Sheffield. As Gladstone stated in his description of the office, its holder had no official rank, and the precedence of the premier was not determined until 1905. The prime minister now has precedence over all members of his administration except the lord chancellor.

The appointment of the prime minister is determined by constitutional usage. The king appoints him, but the prime minister is practically chosen by the political party which a general election has placed in a majority in the House of Commons. Since the Reform Act of 1832 the only premiers who were not of the House of Commons were Grey, Derby, Russell, Beaconsfield, Salisbury and Rosebery. Melbourne and Palmerston were of the Irish peerage and sat in the House of Commons. Lord John Russell was not of the peerage until he was created an earl in 1861. Premiers, when of the Commons, are leaders of the House—an office of so much importance as to make it an obvious disadvantage, especially for a Liberal government, when the prime minister is of the Lords. The prime minister usually holds the office of first lord of the treasury—an office whose duties are only nominal. On the advice of the prime minister to the king the members of the Cabinet and ministry are appointed. He has a general oversight of all the state departments and controls the arrangement of business in Parliament. He is in constant communication with the sovereign, and when Parliament is in session he writes a letter to the king which is despatched at the close of each sitting, reporting the progress of business. In all the oversea dominions the office of premier has developed on the same lines as at Westminster.

See CABINET GOVERNMENT; EXECUTIVE SYSTEM OF GREAT BRITAIN; HOUSE OF COMMONS; PARTY GOVERNMENT IN GREAT BRITAIN.

References: W. R. Anson, *Law and Custom of the Constitution* (3d ed., 1907), II; S. J. M. Low, *The Governance of England* (1904), 153-162, 263; J. Morley, *Life of Gladstone* (1903), I, 297-300, II, 416-424.

EDWARD PORRITT.

PRIMOGENITURE. The right which the first-born or eldest son, had under the Norman and English law, to succeed to the land of his father in preference to all the other children. It is now greatly modified in England and abolished in the United States. Reference: Sir H. Maine, *Early Law and Customs* (1886), 260. H. M. B.

PRINCE EDWARD ISLAND. Prince Edward Island is the smallest among the nine provinces of Canada. It is situated in the Gulf of the St. Lawrence, off the northeastern coast of Nova Scotia. It is about one hundred and forty miles long and at its narrowest

point about thirty-four miles in breadth, having a total area of slightly more than two thousand square miles. Its population in 1911 was 93,722. The island was discovered by the Cabots and named St. John, but not being taken possession of by England, fell within the territories claimed by France a short time later. After the Treaty of Utrecht the island received a considerable influx of French from the ceded territory of Acadia, but was itself taken by the English in 1745 only to be restored to France by treaty in 1748. In 1763 the Treaty of Paris finally awarded the island to England, and, together with Cape Breton, it was placed under the government of Nova Scotia. Seven years later it was given a separate administration. The history of Prince Edward Island during the next three quarters of a century was marked by serious troubles over questions of land tenure and by political bickerings over questions of executive responsibility similar to those which convulsed the other Canadian provinces. These troubles were not eliminated until 1851, when a complete system of responsible government was finally established.

Prince Edward Island was represented at the confederation conferences of 1863-64, but public feeling among the islanders was so strongly opposed to the scheme of union finally adopted that the provincial authorities declined to enter the federation of 1867. Six years later, however, its admission as a province of the Dominion was brought about by special act. The province is represented in the Dominion Parliament by four senators and four members of the house of commons. Its provincial government consists of a lieutenant-governor appointed for a four-year term by the governor-general of the Dominion, a responsible ministry headed by a provincial prime minister, and an elective legislature of thirty members. These members of the legislature are chosen ten from each of the three counties of the island. A general election must take place at least once in four years, but the legislative assembly may be dissolved at any earlier time by the lieutenant-governor on the advice of his ministers. The provincial capital is Charlottetown. See CANADA; CANADIAN PROVINCES. References: D. Campbell, *Hist. of Prince Edward Island* (1875); W. Kingsford, *Hist. of Canada* (1887-1898), *passim*; *Canadian Annual Review of Public Affairs*. W. B. M.

PRINTING AND BINDING, PUBLIC. Public printing and binding is usually let by contract, with a maximum price fixed by the legislative body. The contracts must be approved usually by the Governor or the treasurer. In some states, there is a state printer, appointed by the governor, or, as in the case of Louisiana, appointed by joint vote of both houses. In Ohio, the public printing and binding is

to be done, if possible, by the state, by the use of prison labor. The Congressional Printing Office is the largest and most extravagant publishing establishment in the world. See EXPENDITURES, FEDERAL; EXPENDITURES, STATE AND LOCAL; PURCHASE OF PUBLIC SUPPLIES. References: Constitutions of the states.

T. N. H.

PRINTING AND STATIONERY, DIVISION OF. The Division of Printing and Stationery is one of the divisions of the United States Treasury Department (*see*). This division keeps the records of incoming and outgoing mail, and preserves the files. A. N. H.

PRINTING OFFICE, GOVERNMENT. See GOVERNMENT PRINTING OFFICE.

PRISON DISCIPLINE. Purposes.—Prison discipline has two objects: (1) the maintenance of the institution, which involves the safe keeping of prisoners, including the prevention of escapes, mutiny, disorder, immorality, etc., the maintenance of good behavior, self-control, self-respect, faithful performance of tasks, etc., the protection of the officers of the prison, the preservation of the health of the prisoners and officers, including proper ventilation, heating, plumbing, cleanliness and sanitation; (2) the reformation of the prisoner. It is quite possible to have good order, good sanitation, and outward compliance to rules, without any material effect upon the character of the inmates. It is well understood that the worst prisoner sometimes makes the best convict; one who has been in prison repeatedly knows the ways of the prison and has learned by experience that it is foolish to resist the fixed order of things. Such a prisoner will keep all of the rules, conduct himself with propriety, save his good time, and return to criminal courses immediately upon his discharge.

Punishment.—Till a few decades ago severity was considered an essential part of prison discipline. Prisoners were sentenced to "confinement at hard labor," with an implication that this involved hardship and suffering. The prison was a place of punishment and rigor which was enforced by coarse fare, striped clothing, shaven heads, rigorous silence, harsh commands and sometimes torture. Prisoners who violated the rules were promptly subjected to such punishments as a bread and water diet, cat o' nine tails, paddle, cold shower bath, fire hose, dark unventilated dungeon, stringing up by the thumbs. Punishments unknown to the law or forbidden by law were in frequent use. Thus in Sing Sing prison, New York, as late as 1885, an instrument of torture called a "slide" was in regular use. The officers used it because no man could endure the strain of it for more than five minutes without fainting, and therefore defended

it as a plan which, while it inflicted no physical injury upon the prisoner, invariably forced submission. In some prisons whipping and other tortures are still in regular use. In 1912 a prisoner in the Michigan penitentiary at Jackson died under a torturing punishment.

In most of the prisons of the United States these severe punishments have been discarded. In some prisons, convicts who are reported for misconduct are brought before the deputy warden who gives them a patient hearing. If the prisoner has acted hastily and shows penitence he may be forgiven; otherwise he may be confined in a well lighted cell where he is compelled to stand at ease during working hours, where he sleeps at night upon a wooden plank and where he remains until he shows a cheerful disposition to render reasonable compliance with the rules. The prisoner may lose good conduct time or he may lose marks which will retard his advancement to a higher grade, or he may be deprived of the privilege of writing letters or receiving visits.

Garb.—In many prisons stripes are no longer worn but the prisoners are divided into three grades. On commitment the prisoner is placed in the second grade and may rise or fall according to his record. Misconduct may place him in the third grade where he will wear prison stripes and will be conspicuous as a delinquent. Good conduct will advance him to the first grade where he wears a neat gray uniform and is treated with an increasing degree of confidence and good will. Continuance for a suitable time in the first grade is prerequisite to the privilege of parole which now exists in many prisons.

Recreation.—The effort is made to enlist the good will of the prisoner and secure his co-operation in his own improvement. Provision is made for the wholesome employment of prisoners out of working hours by books, studies, literary societies, etc. The best penologists now recognize that a man cannot be reformed by degrading him or according him such treatment that he will set himself against every reformatory influence. It has been found that wholesome recreation, entertainments, athletic contests, baseball games, gymnastic exercises and social intercourse with his kind may be made to serve the proper ends of imprisonment.

There has long been a deep seated feeling in the community that the prisoner should be made to suffer in some degree, first as a proper retribution for his ill desert, and second, as a deterrent from future misdoing, but it is now generally recognized that the effort to assign to the prisoner a penalty proportionate to his guilt is futile. It is impossible for the state to establish such standards as will enable one human being justly to measure the desert of another. It may be admitted that punishment has a certain deterrent effect; and hence many people have felt that the introduction of

amusements, recreation, schools, literary societies, etc., tends unduly to mitigate the experience of the prisoners and to do away with the wholesome deterrent effect. Many who are familiar with prison life and prison conditions do not share this anxiety.

Prison Officers.—The chief burden of the prison falls upon the deputy warden or the disciplinary officer who has immediate charge of the prisoners. That officer must be a man of extraordinary justice, wisdom, patience and discrimination. If he is a man of harsh or unjust disposition he will exercise a destructive influence upon the characters of his men. The guards must be men chosen with special reference to their intelligence, conscience, and fair mindedness. There is a growing demand for training schools for prison officers and it is probable that such schools will be organized and conducted by officers who have shown special skill in dealing with prisoners.

See COUNTY JAILS; PENITENTIARIES.

References: F. H. Wines, *Punishment and Reformation* (1910); G. W. Cable, "Convict Lease System of the Southern States" in Nat. Conf. of Charities and Correction, *Proceedings*, 1883, 265; C. R. Henderson, *Penal and Reformatory Institutions* (1910); H. M. Boies, *Science of Penology* (1901); Am. Prison Assoc. (formerly Nat. Prison Assoc.), *Reports* (1870 to date); Z. R. Brockway, *Fifty Years of Prison Service* (1912).

HASTINGS H. HART.

PRISON INDUSTRIES. For misdemeanor prisons, workhouses, houses of correction, etc., it has been necessary to introduce industries of a simple character which require little training, for the reason that the prisoners are usually low grade men of intemperate habit and their stay very brief, their sentences ranging from five days to six months, with a small number of prisoners who serve a year or more. Such industries as brush-making, broom-making and rug-making have been practiced. Recently there has been a movement in favor of placing misdemeanor prisoners on farms, and employing prisoners largely upon reclamation of waste land, farming, truck gardening, horticulture, etc. It is recognized that such industries as brush-making have no reformatory influence and do not teach practical or useful labor.

In state prisons and penitentiaries, a wider range of industries has been practicable because the prisoners are of higher grade and serve for longer terms. The leading industries in state penitentiaries have been such work as stone quarrying, stone cutting, mining, shoe making, shirt making, foundries, including stove making, hollow ware, enameled ware, etc., manufacture of agricultural implements and furniture, rug making, broom making, weaving, manufacture of binder twine and seamless sacks, agriculture and horticulture.

With the introduction of the "state use system," there is being introduced the manufacture of office furniture, school furniture, printing, book binding, tin ware, clothing, wagons, hand carts, etc.

In some states, the law requires that no power machinery shall be employed. In other states the number of men that can be employed upon a given line of industry is limited. There is a general movement toward increasing the employment of prisoners upon farms and farm work, which has been prosecuted profitably in several southern states. In a number of states prisoners are employed principally on the making of public roads. County prisoners are so used quite extensively in the South. Objection has been raised to the employment of prisoners on the public roads in that it exposes them to the public view, facilitates escapes, and makes it difficult to provide housing facilities and to provide schools and other reformatory agencies.

A great effort has been made to find prison industries which would not compete with free labor. This search is futile, for the reason that if the prisoner performs any productive labor, he must compete with free labor. If he sweeps his own cell, if he cooks his own meals or sets his own table, he does work for which free laborers might have been employed. All agree that convicts should work at some productive labor. That being the case, it is necessary to accept the fact of competition, but to endeavor so to distribute convict labor as to avoid unfair competition and distribute the burden as widely and equitably as possible between the different industries.

County jail prisoners are almost invariably kept in idleness, partly because their number is too small to permit profitable employment; partly because the involuntary employment of unconvicted prisoners is unconstitutional; but it has been found by experience in Pennsylvania and New Hampshire that most prisoners prefer to work if suitable employment is provided.

See CONVICT LABOR; COUNTY JAILS; CRIMINAL, REFORMATION OF; PENITENTIARIES; PRISON DISCIPLINE; PRISON LABOR.

References: Am. Prison Assoc. (formerly Nat. Prison Assoc.), *Reports* (1870 to date); Z. R. Brockway, *Fifty Years of Prison Service* (1912); F. H. Wines, *Punishment and Reformation* (1910); New York State Legislature, *An Act in Relation to a Farm and Industrial Colony for Tramps and Vagrants* (1911), ch. 812; C. R. Henderson, *Penal and Reformatory Institutions* (1910); Massachusetts State Farm, *Annual Reports* (1889 to date).

HASTINGS H. HART.

PRISON INSPECTORS. The term prison inspector is used both with reference to the boards of trustees of certain prisons, and also with reference to officers who visit and super-

vise prisons without administrative authority. The latter is the correct use of the term.

In Rhode Island, Ohio, Illinois and other states having state boards of control for charitable and public institutions, both the duties of management and inspection fall to one board. In Massachusetts and New York the public prisons are under the management of the state prison commission and are also subject to inspection by outside officers. In the states of Indiana, Colorado, California, etc., the prisons are managed by special boards of trustees but are subject to inspection by the state board of charities.

It is generally agreed that all city, county and state prisons should be subject to the inspection and supervision of public officers, entirely separate from the officials who administer the prisons. This is necessary because prisons are closed institutions; and prisoners are of necessity subjected to a degree of control which gives opportunity for abuses, and calls for outside visitation both for the protection of the inmates against possible abuse and for the improvement of the administration. The difficulty of adequate supervision is increased by the tendency of officers to become harsh in the effort to maintain discipline, and the tendency of prisoners to complain of things which are unavoidable incidents to administration.

See COUNTY JAILS; CRIMINAL, REFORMATION OF; PENITENTIARIES; PRISON DISCIPLINE.

References: F. H. Wines, *Punishment and Reformation* (1910); C. R. Henderson, *Penal and Reformatory Institutions* (1910).

H. H. H.

PRISON LABOR. The prison labor question has been complicated and obscured by the enactment of legislation which deals with this question on irrational principles. Every one agrees that the prisoner ought to work. There is practically universal agreement that his labor should be productive and that he should, as far as practicable, earn his own keep. Most students of penology agree further that prison labor should be so organized as to promote the reformation of the prisoner, and to fit him for self-support after his discharge. But most of these rational principles have been disregarded in ill-considered or inconsiderate legislation.

Lease System.—In the past, prisoners were worked upon the lease system, under which their labor was sold to men who held them practically in slavery; or have been employed under the contract system whereby the employer obtained the labor for a nominal sum, usually forty cents to seventy-five cents per day; or they were employed under the piece price system, under which the contractor paid by the piece for the work actually performed. It is generally believed among workingmen that under the contract system and the piece price system the contractor enjoys unjust ad-

vantages, and free laborers are exposed to unfair and injurious competition. As a result of this belief, irrational convict labor laws have been enacted. In some states the number of convicts to be employed on productive labor is limited; in others all use of power machinery is prohibited; and in many such restrictions have been established as to make it impossible to employ convicts remuneratively. As a result few prisoners, though provided with a free plant, earn as much as fifty per cent of the cost of maintenance; and the public is charged not only with the burden of supporting idle prisoners but also, in many cases, with the burden of supporting their dependent families at home.

Public Account System.—The lease system, the contract system, and the piece price system have generally been superseded by the "public account" system and the "state use" system (see PRISON LABOR, PUBLIC ACCOUNT SYSTEM OF.)

Public Use System.—Under the public use system the products of the prison labor are disposed of to the state, the counties, and the municipalities of the community. They include the manufacture of clothing, furniture, wagons, farming utensils, school desks, etc., for use in public institutions. Usually it is made mandatory upon the administrators of such institutions to purchase from the prison such articles as the prison can supply. The state use system is followed extensively in New York. It is being introduced in other states and is generally accepted as a reasonable solution of the prison labor problem. It is probably the coming system of prison labor in the United States, notwithstanding the fact that it involves a palpable fallacy. Theoretically, it does away with the competition of prison labor with free labor; but it undoubtedly takes away desirable customers of the manufacturer and the wholesaler, customers who buy in large quantities, the year round, are not unreasonably exacting as to quality, and always sure pay.

Competition.—The fact is that it is impossible to organize any system of productive labor in prisons which shall be entirely free from competition. The convict is a prisoner because he has not competed with free labor. To do him any good, he must be qualified to compete with free labor, and put back into the community as a competitor. If the convict performs any productive labor he necessarily competes with free labor. The remedy for the evils of convict labor are: (1) convicts shall be employed as nearly as possible like free laborers; (2) their product shall be sold on the market at its actual value; (3) the labor shall be distributed as equitably as possible among different trades, and shall not be concentrated upon some one form of labor like shoe-making or barrel-making or stove-making. The workingman must choose

whether his labor shall support the convicts in idleness, or whether the convicts shall support themselves by their own labor under as fair an adjustment as possible, and the free laborers shall endure a reasonable amount of fair competition.

See CONVICT LABOR; CRIMINAL, REFORMATION OF; PENITENTIARIES; PRISON DISCIPLINE; PRISON INDUSTRIES; PRISONS FOR WOMEN.

References: New York State Commission of Prisons, *Annual Reports* (1896 to date); New York State Legislature, *Act in Relation to a Farm and Industrial Colony for Tramps and Vagrants* (1911), ch. 812; C. R. Henderson, *Penal and Reformatory Institutions* (1910), *Outdoor Labor for Convicts* (1907); F. H. Wines, *Punishment and Reformation* (1910); Massachusetts State Farm, *Annual Reports*, No. 1 (1854), (1889 to date); Am. Prison Assoc. (formerly Nat. Prison Assoc.), *Reports* (1870 to date); E. Stagg Whitin, *Penal Servitude* (1912); *Am. Year Book*, 1910, 465, 1911, 374, and year by year.

HASTINGS H. HART.

PRISON LABOR, PUBLIC ACCOUNT SYSTEM OF. Under the public account system of prison labor the state goes into business on its own account, providing the necessary capital, shops, machinery, material and instructors. The goods are sold in the public markets and the profits, if any, go into the state treasury. In order to carry on the state account system successfully it is necessary either to provide a large capital amounting to from \$1500 to \$3000 per man, or else to engage in some very simple manufacture which requires little machinery and a moderate capital, such as the manufacture of brooms, brushes, door mats, etc. On whatever scale the state account system may be operated it is necessary to have a prison warden who is a competent and thorough going business man. This is especially true when the manufacture is undertaken on a large scale, requiring expensive machinery, large stocks of raw material and an elaborate system of marketing. Examples of success in the state account system are found in the Minnesota state prison which manufactures binder twine to be sold to the farmers of the state at prices below those which are obtained by the trust, and the Detroit house of correction which has for many years successfully maintained a large furniture manufactory. Any manufacturing business, carried on by the state on a large scale, involves a considerable hazard and the disappointments which have been experienced in this method in the past have discouraged the establishment of new public account ventures. See CONVICT LABOR; PRISON LABOR. References: C. R. Henderson, *Penal and Reformatory Institutions* (1910); Prison Assoc. (formerly Nat. Prison Assoc.), *Reports* (1870 to date).

H. H. H.

PRISON LABORATORIES. Prisons afford an extraordinary opportunity for study relative to the causes and prevention of crime. American physicians and penologists are not generally inclined to accept the French doctrine of a criminal type; but it has long been recognized that every prison contains many individuals who are defective in one way or another, and are not to be considered morally accountable.

In recent years the scientific study of prisoners has been undertaken in such prisons as the New York reformatory at Elmira, the New Jersey reformatory at Rahway and the New York reformatory for women at Bedford. These inquiries indicate that the proportion of irresponsible prisoners is larger than was formerly supposed.

It is nearly self-evident that intelligent reformatory treatment of prisoners ought to be based upon the most complete and careful diagnosis. The following course of procedure is suggested:

(1) The prisoner should undergo an elaborate and exhaustive medical examination more thorough than would be required for life insurance, in order to ascertain his heredity; his physical development as compared with normal standards; the condition of all his organs—brain, heart, lungs, digestive apparatus, skin, teeth, eyes, ears and nose; and the presence or absence of chronic, contagious or infectious diseases and tendencies.

(2) A thorough psychological examination should be made to discover the prisoner's mental ability, education, capacity and bent; especially to discover whether the patient is in any degree feeble-minded, insane, epileptic or otherwise defective.

(3) The examination should be directed also to the spiritual capability of the individual; his perception of right and wrong; the development of his conscience; his regard or disregard for the truth and the moral law; his good and bad habits of mind and body; his religious affiliations, and his susceptibility to moral and religious impressions.

All of this information should be so recorded as to make it accessible for the medical, educational, religious and disciplinary officers of the prison. It is reasonable to anticipate that within a very few years careful and complete studies like those here outlined will be the rule in all well organized prisons with a corresponding gain in the opportunity for intelligent treatment of prisoners.

The psychological study of the prisoner is no less important in jails and detention prisons than in penal institutions. Such studies have been commenced in the Tombs prison of New York and the need of such studies for the guidance of judges and court officers is already manifest.

See CRIMINAL, REFORMATION OF; CRIMINOLOGY.

References: Z. R. Brockway, *Fifty Years of Prison Service* (1912); C. R. Henderson, *Prison Laboratories* (1900), 232-46.

HASTINGS H. HART.

PRISON MATRONS. Prison matrons have long been employed in state prisons where women convicts are confined; but it is only within a few years that the custom of providing matrons in prisons of detention, even in the larger cities, has become general. Every such prison is liable to receive women who are intoxicated, sick, insane or feeble minded. The difficulty arises from the fact that in most county jails, police stations and lockups, the number of female prisoners is very small and the public authorities have objected to providing matrons for so few prisoners. This difficulty has been met in the state of Minnesota by a law requiring that a matron shall be appointed for every jail and police station in the state and that in those prisons where few women prisoners are confined the matron may be paid for actual service rendered on the per diem basis; but that she must be on duty whenever female prisoners are confined. In practice, prison matrons have been found exceedingly useful in caring for children, young girls and young women who are not hardened in crime.

In California and some other states, a few women are regularly appointed on the police force and presumably are detailed to service in which their sex will be of special advantage. Such officials might be used in many cases as police matrons.

See **COUNTY JAILS; POLICE IN AMERICAN CITIES; PRISONS FOR WOMEN.**

HASTINGS H. HART.

PRISONERS, GOOD BEHAVIOR OF. See **GOOD BEHAVIOR OF PRISONERS.**

PRISONERS OF WAR. "A prisoner of war is a public enemy armed or attached to the hostile army for active aid, who has fallen into the hands of the captor, either fighting or wounded, on the field or in the hospital, by individual surrender or by capitulation." As this definition has largely influenced modern codifications of the laws of war, it may be regarded as comprehensive for war upon the land. On the sea, similarly, persons taken by the enemy would be prisoners of war.

In early days prisoners were killed or enslaved. At the present time the rules of war prescribe that they may be "interned in a town, fortress, camp or any other locality and are bound not to go beyond fixed limits; but they can be confined only as an indispensable measure of safety, and only while the circumstances necessitating the measure continue to exist." They must be maintained by the state into whose hands they have fallen in a manner consistent with their rank. They may labor

for pay on non-military works. They may be paroled but are not obliged to accept parole. Newspaper correspondents and reporters, sutlers and contractors accompanying the army may be treated as prisoners of war. All are allowed the largest freedom consistent with the military situation.

See **CARTEL; COURTS MARTIAL; DECLARATION OF WAR; NON-COMBATANT; MILITARY PRISONS; WAR, INTERNATIONAL RELATIONS IN.**

References: Hague Convention, *Laws and Customs of War on Land* (1907), ch. ii; U. S. War Department, *General Orders*, No. 100 (1863), § 49, Lieber's Code. G. G. WILSON.

PRISONERS, PROBATION OF. **Principle.**—Suspension of sentence is at common law an inherent power of a court of record and was exercised long before probation as a form of correctional procedure.

Growth of Legislation.—The first adult probation law, that of Massachusetts in 1878, provided for the appointment in any criminal court within the county of Suffolk, at the discretion of the court, of a probation officer whose duties were to make investigations and recommendations for the release of offenders on probation, and to visit and assist them. Rhode Island adopted adult probation in 1899 in a limited form. New Jersey and Vermont followed in 1900. New York, in 1901, authorized all courts having original criminal jurisdiction to use probation practically without restriction. California, Connecticut, and Michigan adopted adult probation in 1903. California applied it in all courts without restriction. Michigan limited its use to persons never before convicted of crime. Maine in 1905 instituted adult probation in Cumberland County, and in 1909 extended it to the remainder of the State.

Indiana established adult probation in 1907 excluding specified crimes. It was the first state to require the supervision of probationers by the authorities and agents of correctional institutions. Ohio in 1908 framed an adult probation law along lines similar to the Indiana statute.

Colorado, by a unique statute of 1909, extended the chancery procedure to misdemeanors of adults, and created a probation court to which the state as *parens patriae* could summons adults within the civil jurisdiction of the court, and if guilty of a misdemeanor place them on probation by an order of the court; violation of the order was declared to be contempt of court and punished accordingly.

Kansas, Minnesota, North Dakota, Oregon, Pennsylvania and Wisconsin also instituted adult probation in 1909. Kansas restricted its use to persons convicted of the violation of ordinances in cities of the first and second class. Minnesota applied it generally to all offenses and crimes where the maximum pen-

alty did not exceed five years imprisonment. North Dakota excluded all persons who were not first offenders, excepted specified crimes, and placed the supervision of persons on probation under the Board of Trustees of the penitentiary. Oregon limited adult probation to persons never before convicted of felony and allowed their release under the oversight of the court or a Prisoners' Aid Society. Pennsylvania permitted adult probation for persons never previously imprisoned for crime and excepted specified crimes. Wisconsin excluded second offenders and persons convicted of crimes in which the maximum penalty was ten years imprisonment.

The District of Columbia and Virginia adopted the principle with limitations in 1910. Delaware in 1911 excluded persons previously convicted of crime, but permitted its use in all crimes not capital. An adult probation law in Illinois, in 1911, restricted probation to persons never previously convicted of crime who upon conviction could request the court that they be released on probation; and the court was empowered to exercise probation provided their offenses did not involve the appropriation of \$200 in money, or other property values to the same amount. The courts, however, were given freedom in the use of probation upon conviction of violation of ordinances. The tendency since 1907 has been to impose restrictions and limitations on the court.

Comparison with Juvenile Probation.—Although adult probation has made great progress, it has not kept pace with juvenile probation in the number of states adopting it, or its general use in many states in which both systems have been established. The difference in growth can in part be explained by the more fundamental and preventive nature of juvenile probation. The jurisdiction of the children's courts in many of the states where adult probation has lagged behind has been transferred to chancery courts and the more attractive features of child reform work in civil courts may have detracted the interest of social workers from the criminal courts and their problems. Public impatience with adult crime, the traditional fear of making punishment easy, the greater social values heretofore attached to property rights over personal rights, and the negro problem in the southern states, have been other contributing causes.

Ideal of Reformation.—The ideals of progressive penology are reclamation of the offender and individual treatment of each human problem instead of mass treatment. The same principles should be applied to probation. The provisions in some of the recent probation statutes, notably those of Indiana, Ohio, North Dakota, and Wisconsin, which specifically impute that certain classes of probationers are on the same moral and social level as paroled

prisoners, and place their supervision under the control of the authorities of prisoners and other correctional institutions, are out of harmony with the redemptive and constructive spirit of probation.

Administration.—The judges and the probation officers are the keystones of the system. The closer the probationer can be kept in touch with them the better results follow. Probation officers whose duties are to reform and discipline and who are expected to exercise great personal influence over their wards ought to be qualified persons carefully selected. Civil service examinations for probation officers are advisable. Every such examination should allow about 50 per cent on written technical work, and about 50 per cent to be rated in an oral examination for personality and experience. Practically all the public salaried probation officers in New York State have been appointed in this way and many of the best officers could never have been found, except for the open competition. Massachusetts, New York and Vermont, three of the first states to institute probation, have established state probation commissions, and bills for such departments have been introduced in other states.

Felonies.—In states which permit the unrestricted use of probation for felonies, the statistics of such cases have shown improvement almost proportionate to those in the minor offenses. The young felon from 16 to 25 years of age has offered an exceptional opportunity for probation. In Erie County, New York state, which includes the City of Buffalo, 45 per cent of all adult felons disposed of by the courts have been placed on probation during the past two years, and, at least 75 per cent of these cases have shown improvement and have never come back to the criminal courts.

Non-Support.—Attention should be called to the remarkable development in non-support cases under probation. Formerly the non-support evil was neglected everywhere, and the public paid the price in poverty, crime, and the heavy toll exacted from unfortunate women and children. The probation system has shown itself to be adapted to the following up of these cases, to securing employment for the culprits, to collecting their wages and cementing home differences.

Need of Federal Laws.—The enactment of a federal probation law is a much needed reform in the criminal procedure of the United States courts. A large proportion of persons convicted in the United States district court are first offenders and many of the offenses are for technical violation of the law. Probation can be used to good advantage in such cases and should be established. Probation bills have been introduced during several sessions of Congress, but have never been reported out of committee.

See CRIMINAL, REFORMATION OF; GOOD BEHAVIOR OF PRISONERS; INDETERMINATE SENTENCE; LEGAL PROCEDURE, PROPOSED REFORM OF; PAROLE SYSTEM.

References: National Probation Assoc., *Annual Report*, 1910, *passim*; New York Probation Assoc., *Annual Report*, 1908, *passim*; Am. Prison Assoc., *Annual Report*, 1870, *passim*; *Am. Year Book*, 1910, 1911, 1912.

HASTINGS H. HART.

PRISONS, CITY AND COUNTY. See COUNTY JAILS.

PRISONS FOR WOMEN. The United States has been slow to establish a special prison system for women, partly because of the very small number of women convicted of crime, and partly because of general traditions which have stood in the way of establishing a prison system. The first prison exclusively for women in the United States was the Massachusetts State Reformatory for Women at Sherborn; the second was the Indiana Prison for Women at Indianapolis; the third was the New York Prison for Women at Hudson, subsequently transferred to Bedford; the fourth was the New Jersey Reformatory for Women near Clinton. These four remain the only separate prisons for women in the United States (1913).

Departments for the confinement of women prisoners exist in connection with nearly all of the state prisons and the houses of correction or work houses in the United States, though prison officers almost universally condemn the plan of keeping men and women in the same institution, for the reason that the women are a disturbing influence in the discipline of the prison; constant vigilance is required to prevent communication between the two sexes, and it is impossible to give the women that degree of liberty and outdoor life which is essential for reformatory treatment. Furthermore the same degree of rigor is unnecessary for their safe keeping.

The Bedford prison for women illustrates the plan which is adapted to the needs of women prisoners. There is no prison wall and the gates to the prison enclosure stand open. The women occupy cottages holding 30 to 50 women each. The cottage windows are protected by a lattice of steel wire but there are no steel doors and no prison appliances. The women go back and forth through the grounds, work in the stables, grounds and fields, build sidewalks, do painting, whitewashing, etc. The life appears to be remarkably free, natural and wholesome. The contrast between the aspect of these women and those who are confined in ordinary prisons where male prisoners are confined is palpable even to the casual observer, and it has been demonstrated that an *esprit de corps* can be established whereby restrictive discipline is reduced to its lowest terms.

Public sentiment in favor of separate prisons for women is rapidly growing, and such prisons are contemplated in Ohio, New Jersey and other states of the Union.

See PENITENTIARIES; REFORMATORIES, JUVENILE.

References: New York State Legislature, *An Act to Establish a State Farm for Women* (1908), ch. 467; United States Bureau of the Census, *Prisoners and Juvenile Delinquents in Institutions* (1904); C. R. Henderson, *Penal and Reformatory Institutions* (1910).

HASTINGS H. HART.

PRIVACY, RIGHT TO. The right of inviolate personality—the right to prevent the unauthorized use of one's name, reputation, portrait or other likeness, or the unauthorized and false attributing to one of alleged statements. The existence of such a right at common law, independent of property rights, contract and the law of trusts and of slander and libel, seems not to have been asserted in any court of last resort until after 1890. It has been most frequently claimed to recover damages for the unauthorized use of one's likeness or alleged statement of opinion in the defendant's advertising matter. Those courts which have passed upon the question, are about evenly divided as to whether the right exists in the absence of a statute giving it. On the one hand it is asserted that the non-recognition by the courts of such right, except in connection with property or contract rights, or trust relations is practically conclusive against its existence, and that to admit it would infringe upon the freedom of the press and of speech. On the other hand it is argued that the right which one has in his name or likeness is fairly included within the legal concept of property; but that even if it were not, the common law has in spirit and in fact recognized such a right, in affording remedies for private nuisances, against eavesdroppers, in the right to be secure in one's home, to prevent the unauthorized publication of even one's commercially valueless papers, letters, and works of art. In New York where the right at common law was denied by the Court of Appeals, a statute creating such a right and providing penalties for its violations, has since been passed. References: W. D. Warren and L. D. Brandeis, "Right to Privacy" in *Harvard Law Rev.*, IV (1890), 193; Editorial in *Mich. Law Rev.*, III (1905), 559-563; *ibid.*, VIII (1910), 221; *Laws of New York* (1903), chs. 132, 308.

H. M. B.

PRIVATE BILLS. A private bill as distinguished from a public bill is one which, instead of applying generally to all persons in the state or to all persons in a class, defined according to some essential characteristic, affects only a particular person or place. Such are bills for the incorporation of railway,

gas, water and other companies; bills for incorporating towns and cities or for extending their powers; bills for the naturalization of particular individuals; bills to change the names of persons or places; divorce bills; bills granting pensions to certain individuals; bills for the settlement of private claims; exemption bills and the like. A characteristic feature of such bills is that they are usually designed to confer a benefit or privilege upon some particular person, company or place and the proceedings with reference to them are to a certain extent, judicial as well as legislative in character. In England private bills are brought before Parliament by "petition" and may be introduced only after public notice has been given by advertisement three months before the opening of Parliament. Fees are also required to be paid by the parties promoting or opposing such bills. They must be deposited before December 31 in the "private bill office" where they are open for public inspection and the question of the notices and other preliminary proceedings required is inquired into and reported upon by two examiners of petitions appointed by the speaker. They are then considered by a committee on private bills which takes evidence regarding their merits, hears arguments from promoters and opponents and reports to the house.

In the United States, with a few exceptions, the procedure in respect to private bills differs in no essential particular from that with reference to public bills. In Congress there is a private bill calender to which is referred the large mass of private pension bills, relief measures, and the like, but except for the practice by which such bills are usually passed by unanimous consent there is no essential difference in the procedure.

In a few of the states, however, the English distinction between public and private bills is observed and a different method of procedure for passing them is followed. For example in Massachusetts a private or local bill must be proposed by petition and is considered only after notice has been given by advertisement or otherwise to all the parties interested. In Pennsylvania and a few other states notice of intention to apply for a special act must be published in the locality where the matter or thing to be affected is situated, at least thirty days prior to the introduction of such a bill in the legislature.

See BILLS, COURSE OF; LEGISLATION, BRITISH SYSTEM OF; LEGISLATIVE OUTPUT, STATE AND NATIONAL; LEGISLATIVE SYSTEM IN EUROPE; STATUTES, STATE.

References: J. Bryce, *The Am. Commonwealth* (4th ed., 1910), I, 688-690; W. K. Clifford, *History of Private Bill Legislation* (1885); L. S. Cushing, *Law and Practice of Legislative Assemblies* (1907), 933-975; P. S. Reinsch, *Am. Legislatures and Legislative Methods* (1903). JAMES W. GARNER.

PRIVATE BILLS DAY. Private-bills day in the federal House of Representatives is the day regularly set apart for the consideration of private business—especially of claims against the government, and pension bills. This day is Friday in every week, but may be devoted to other business by a majority vote of the House (Rule XXIV). See PRIVATE BILLS, RULES OF CONGRESS. References: A. C. Hinds, *Precedents of the House of Representatives* (1907-1908), IV, §§ 3081-3085, 3201, 3202, 3266-3282, 3310, V, § 6945. A. N. H.

PRIVATE INTERNATIONAL LAW. See INTERNATIONAL LAW, PRIVATE.

PRIVATE PROPERTY AT SEA. Private property at sea in time of war may, in general, be in form of vessels or goods, and may belong to a belligerent or to a neutral.

The private vessels of a belligerent are liable to capture unless specially exempt by nature of their service, as hospital or scientific ships; by nature of their occupation, as coast fishing vessels or small vessels employed in local trade; or vessels exempt by declaration at the outbreak of war.

The private goods of a belligerent are in general liable to capture unless under a neutral flag, and even then if they are of the nature of contraband.

The private vessels of a neutral innocently employed, are exempt from capture. Such vessels may be captured for violation of blockade (*see*), carriage of contraband (*see*), un-neutral service, resistance of visit and search, sailing under enemy convoy, or irregularity or absence of proper papers.

The private goods of a neutral are, in general, exempt from capture except contraband of war, even when on board the vessel of an enemy.

The United States has from the very early days of the republic been in favor of the exemption from capture in time of war of private property at sea, except contraband. Franklin, in 1781 and 1783, wrote in favor of this policy. Various representatives of the United States in a formal and informal manner have endeavored to bring about this exemption. Secretary Marey strove to secure exemption in connection with the negotiations in regard to the adoption of the Treaty of Paris (*see*) in 1856. Congress passed a resolution in favor of exemption on April 28, 1904, and the American delegation at the Second Hague Peace Conference in 1907 labored earnestly to secure an international agreement exempting all private property at sea, not contraband of war, from capture or destruction by belligerents.

See COMMERCE, INTERNATIONAL; CONTINUOUS VOYAGES; CONTRABAND; FREE SHIPS MAKE FREE GOODS; MARITIME WAR; NEUTRAL TRADE; PIRACY.

References: L. A. Atherley-Jones, *Commerce in War* (1907); N. Bentwich, *War and Private Property* (1907), 79 *et seq.*; J. B. Moore, *Digest of Int. Law* (1906), VII, 398.

GEORGE G. WILSON.

PRIVATE SUBSIDIES TO INSTITUTIONS.
See SUBSIDIES, PRIVATE, TO INSTITUTIONS.

PRIVATEERS. In the early days of maritime warfare it was customary for a belligerent to grant to private vessels letters of marque (*see*), commissioning them to prey upon the enemy's commerce. These private vessels were not held in high repute in the fifteenth century, but as the practice became more common many resorted to it as a means of obtaining large returns even when patriotism was not a moving influence. Some states forbade the practice in treaty agreements. One between Sweden and the United Provinces was negotiated as early as 1675.

Franklin as minister of the United States endeavored to negotiate treaties prohibiting the resort to privateering and secured the insertion of a clause in the treaty with Prussia in 1785 to the effect that in case of war "neither of the contracting powers shall grant or issue any commission to any private armed vessels, empowering them to take or destroy such trading vessels or interrupt such commerce"; but the clause was not retained in the treaty of 1799 between the United States and Prussia. The United States resorted to privateering in the War of 1812.

Woolsey, in his *International Law*, the first edition of which appeared in 1860 said: "The right to employ this kind of extraordinary naval force is unquestioned, nor is it at all against the usage of nations in times past to grant commissions even to privateers owned by aliens." This opinion was in accord with the American sentiment of the middle of the nineteenth century, as shown in a letter of Secretary Marcy in 1856 which says, "It is, in the opinion of this Government, to be seriously apprehended that if the use of privateers be abandoned, the dominion over the seas will be surrendered to those powers which adopt the policy, and have the means of keeping up large navies. The one which has a decided naval superiority would be potentially the mistress of the ocean, and by the abolition of privateering that domination would be more firmly secured." The states which signed the Declaration of Paris of April 16, 1856, affirmed that "privateering is and remains abolished." The United States maintained that her position was such that unless all private property at sea, except contraband, was made exempt from capture, she could not sign this Declaration. All the leading states of the world adhered to the Declaration except Spain, China, Mexico and the United States, which latter power at the outbreak of the Civil War

in vain proposed to be received among the signatories. During the Spanish-American War of 1898 the United States declared that the government would not resort to privateering and Spain did not use privateers. Spain in 1908 formally adhered to the Declaration, Mexico did the same in 1909. The introduction of the system of a volunteer or auxiliary navy under which private vessels may in time of war be taken over and placed under responsible government control, and the growing sentiment against such practices as were involved in privateering make its further continuance improbable.

See MARITIME WAR; PIRACY; PRIVATE PROPERTY AT SEA; PRIZE LAW AND COURTS.

References: J. B. Moore, *Digest of Int. Law* (1906), VII, 535-583; L. A. Atherley-Jones, *Commerce in War* (1907), 315-321, 541-545; E. S. McClain, *Hist. of American Privateers* (1899); Geo. Coggsball, *Hist. of the American Privateers* (1856); F. R. Stark, *The Abolition of Privateering* (1897). GEORGE G. WILSON.

PRIVILEGE, PARLIAMENTARY. The Constitution of the United States (Art. I, Sec. vi, ¶ 1) says that Senators and Representatives "shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to and returning from the same; and for any speech or debate in either House, they shall not be questioned in any other place." Provisions similar to this appear in most of the state constitutions. The Supreme Court of the United States has decided that the terms "treason, felony and breach of the peace," as used in the Constitution, are intended to include all criminal offenses (*Williamson vs. U. S.*, 207 *U. S.* 425); the provision therefore amounts to a declaration that members may not be arrested save on a criminal charge. Some of the states, for example, Michigan, Indiana and Kansas, extend the privilege to exemption from service of civil process.

The privilege of free speech in legislative assemblies is based on a long struggle of the English Parliament to secure and maintain the right. The right was authoritatively announced in the English Bill of Rights which declared that "the freedom of speech and debates, or proceedings in Parliament, ought not to be impeached or questioned in any Court or place out of Parliament." While the terms used in different American constitutions vary, they are all probably of like effect, and would be construed to cover reports and other official acts as well as words used in debate. The legislative body must, however, be in session, or at least the member must be acting in his official capacity, if he is to have the privilege and immunity.

The privilege of publication is not so clearly settled; where the publication of debates is

official, the publications could not, it would seem, be the basis for action against the representative whose words are complained of; and there seems to be like good reason for holding that in this country a bona fide address to one's constituents is privileged.

The word, privilege, is also used with reference to the rights and prerogatives of a legislative body. For example, an alleged infringement by the treaty-making power on the right of the House of Representatives presents a question of privilege; and a protest by the President against certain proceedings of the House has been declared a breach of privilege. Questions of privilege (not privileged motions or privileged questions) relate to the safety or efficiency of the House.

There are certain motions in parliamentary practice that are called privileged motions.

See ARREST; CONGRESS; FREEDOM OF SPEECH; PARLIAMENTARY LAW; RULES OF LEGISLATIVE BODIES.

References: T. M. Cooley, *Constitutional Limitations* (7th ed., 1903); *Jefferson's Manual*, § iii; Kilbourn vs. Thompson, 103 U. S. 168 (1880); Collin vs. Collin, 4 Mass. 27; V. V. Veeder, "Absolute Immunity in Defamation" in *Columbia Law Review*, X (1910), 131-146; A. C. Hinds, *Digest of Rules of the House of Representatives* (1908), 630; *House Manual* (1909).
A. C. McL.

PRIVILEGED COMMUNICATIONS. Under the law of libel and slander some communications, the making of which orally or in writing is injurious to another and which are in their nature or by reason of the circumstances defamatory, may nevertheless be absolutely or unqualifiedly privileged in such sense as not to furnish the basis of a civil or criminal action. Under the rules of evidence some communications between persons standing in a confidential relation, as between husband and wife, doctor and patient, lawyer and client, are privileged in such sense that one of the parties to such communication will not be allowed against the objection of the other to testify with reference thereto in a court of justice. See FREEDOM OF SPEECH. E. McC.

PRIVILEGED STATUS OF PERSONS. In earlier times, inequalities in the legal and civil status of different classes of persons were quite common. Thus in ancient Athens, the Eupatridae enjoyed special privileges in regard to office holding. So in Rome, the patrician class was especially privileged in various ways. Throughout the middle ages, the existence of privileged orders or estates each with its own laws and courts of justice was one of the basic facts of social and political organization. The chief cause of the French Revolution was the enjoyment by the two upper estates, the nobility and the clergy, of exclusive privileges denied to the third estate. The nobility en-

joyed the right to collect various tolls and other impositions from the peasant class; the aristocratic privilege of the hunt; and of course most of the offices of state as well as military commissions were reserved for them. Their military obligations were exactly fixed and defined, which was not the case with the members of the third estate. The king could not impose taxes, make laws or issue ordinances without their consent; they exercised an inferior jurisdiction over their vassals and to a certain extent possessed a limited territorial sovereignty; they had the privilege of free access to the king and to the parliament of Paris before which alone they could be tried; besides various other privileges not enjoyed by the third estate. The clergy also constituted a privileged class during the middle ages and in some countries, of which France was an example, they continued to be treated as such until the end of the eighteenth century. In England, they were early exempted from the jurisdiction of the ordinary law courts in all ecclesiastical matters and in time they asserted a claim to immunity from trial in the civil courts even for criminal acts, and for a time the privilege was conceded. This extraordinary assertion of privilege was, however, later resisted by the Crown and by the constitutions of Clarendon, in 1164, it was withdrawn and their right of trial before the ecclesiastical courts was restricted to ecclesiastical offenses only.

On the continent, the exclusive privileges of the clergy were even more extensive. They not only claimed and secured exemption from the jurisdiction of the civil courts, but asserted the independence of the church as over against the state; maintained that the laws of the state were not binding upon them; insisted that they were the judges of how far their voluntary obedience to civil authority should extend and even demanded that the secular authority should obey the laws of the church and lend its assistance in carrying out its will. Moreover, the clergy claimed an exemption from military service, the payment of taxes and the performance of other public obligations. The clergy, like the nobility, constituted a separate estate, the highest of the three, and had their own representation in the legislative assemblies. In the canon law they had their own system of jurisprudence and in some states exercised a more or less extensive civil jurisdiction in their domains. Gradually, the special immunities and privileges of the clergy as a class as well as those of the nobility, though less completely, were done away with and they were assimilated with the other classes of society in respect to their legal and civil status. In France this was one of the great results of the Revolution. In a few countries where a hereditary nobility still survives, certain exclusive privileges are still retained by those who belong to this class but

they are not important or extensive. Thus in England, peers enjoy the right of access to the sovereign for the purpose of discussing public affairs and the right to be tried by their own class for acts of treason or felony.

In the United States where a hereditary nobility has never existed (*see* NOBILITY, TITLES OF) and where the clergy never constituted a separate class, equality as regards the legal and civil status of all persons has been a fundamental part of the political system though as regards political rights, this is less true (*see* SUFFRAGE). For reasons of public policy, however, special exemptions or privileges are sometimes allowed to particular persons or classes. Thus some are exempted from military service, jury duty, work on public roads and occasionally certain persons or companies are exempted from taxation permanently or for a limited period. Military veterans are sometimes allowed special privileges or preferences in regard to appointments under the civil service laws and in a few states, particularly in the South, they are exempt from the payment of poll taxes. In a few southern states they as well as their descendants are also exempt from educational tests for voting. Lawyers, spiritual advisers, members of legislative bodies and witnesses enjoy the right of "privileged communication" (*see*).

A common provision found in many state constitutions is one which forbids the legislature from granting to any citizen or class of citizens any privilege or immunities not granted equally to other citizens. Others declare that no special privileges or immunities shall ever be granted which may not be altered, revoked, or repealed by the legislature. A few allow exclusive privileges to be granted only in consideration of public services rendered.

See EQUALITY; LIBERTY.

JAMES W. GARNER.

PRIVILEGES AND IMMUNITIES OF CITIZENS. The Fourteenth Amendment (*see*) of the Federal Constitution, after declaring all persons born or naturalized in the United States and subject to the jurisdiction thereof are citizens of the United States, goes on to provide that no state shall make or enforce any law which shall abridge the privileges and immunities of such citizens. In the famous Slaughter House Cases (*see*) (16 Wall. 36) the doctrine was declared, which has not since been disturbed, that these privileges and immunities thus secured against state abridgement are only those which are peculiar to and arise out of federal citizenship, which citizenship it is pointed out is still distinct from that of the states. It is thus important to determine just what are these peculiar federal privileges and immunities. In the Slaughter House Cases the court does not attempt an exhaustive enumeration of them, but does mention the following as indubitably falling within this class:

The right of the citizen "to come to the seat of government to transact any business he may have with it, to seek its protection, to share its offices, to engage in administering its functions. He has the right of free access to its seaports, through which all operations of foreign commerce are conducted, to the subtreasuries, land offices, and courts of justice in the several states" (*Crandall vs. Nevada*, 6 Wall. 35).

The court also quotes the words of Chief Justice Taney:

Another privilege of a citizen of the United States is to demand the care and protection of the Federal Government over his life, liberty and property when on the high seas or within the jurisdiction of a foreign office. . . . The right to peaceably assemble and petition for redress of grievances, the privilege of the writ of habeas corpus, . . . the right to use the navigable waters of the United States, however they may penetrate the territory of the several states, all rights secured to our citizens by treaties with foreign nations are dependent upon citizenship of the United States, and not citizenship of a state, . . . A citizen of the United States can, of his own volition, become a citizen of any state of the Union by a bona fide residence therein, with the same rights as the other citizens of that state. To these may be added the rights secured by the Thirteenth and Fifteenth Articles of Amendment, and by the . . . Fourteenth.

It may be said generally that federal rights, including within this term both privileges and immunities, embrace all those rights which are recognized and supported by the Federal Constitution and the treaties entered into and statutes enacted in pursuance thereof; and by this is meant not only those rights which are specifically enumerated but all those which impliedly exist by reason of the nature of the American constitutional system and the supremacy of national authority. It is, however, to be remarked that the limitations which are laid upon the Federal Government, as, for example, by the first eight amendments to the Constitution (*see* CONSTITUTION OF THE UNITED STATES, AMENDMENTS TO), do not operate to create corresponding federal rights of the citizen which the states may not abridge. This was decided by the Supreme Court in *Maxwell vs. Dow* (176 U. S. 581) in which case the court says "in none are the privileges and immunities granted and belonging to the individual as a citizen of the United States, but they are secured to all persons as against the Federal Government, entirely irrespective of such citizenship." In *Minor vs. Happersett* (21 Wall. 162) it is specifically denied that the suffrage is a right springing from federal citizenship.

See CITIZENSHIP IN THE UNITED STATES; UNITED STATES AS A FEDERAL STATE.

References: D. K. Watson, *Constitution of the U. S.* (1910); W. W. Willoughby, *Constitutional Law of the U. S.* (1910) J. I. C. Hare, *Am. Const. Law* (1889), 518-521.

W. W. WILLOUGHBY.

PRIVILEGES AND IMMUNITIES OF STATE CITIZENSHIP. The Constitution of the United States provides that the citizens of each state shall be entitled to all the privileges

and immunities of citizens in the several states (Art. IV. Sec. ii, § 1). In a federal state, in which each member of the Union regulates its internal affairs and has its own citizenship, the relations between the commonwealths is of supreme importance. In the United States the principles of private international law apply in such relations in many particulars just as if the states were foreign to each other; but in a number of clauses of the Constitution the states are put under obligations to regard principles of comity, which otherwise might have been disregarded.

The clause we are here considering made it a constitutional duty for each state to grant to citizens of other states of the Union the same privileges and immunities it grants to its own citizens. These privileges are only those which pertain to citizenship. It is not a privilege of citizenship to have a share in the property of another state; the people of the state own the property; for example a state does not violate this constitutional provision by granting to its own citizens the exclusive right of using its waters for maintaining oyster beds and by prohibiting such use by citizens of other states (*McCready vs. Virginia*, 94 U. S. 391). Suffrage is not a privilege or immunity of citizenship. The privileges and immunities contemplated are the fundamental ones—protection by government, the right to acquire property, to pass through or reside in a state, to claim the benefit of habeas corpus, to institute and maintain actions in the courts, etc. The term citizens in this clause of the Constitution does not include corporations but natural persons only. It is therefore constitutional for a state to exclude a corporation established by another state or to prescribe certain conditions under which such corporations may do business within the state, subject, of course, to the general principles concerning freedom of interstate commerce.

See COMITY, INTERNATIONAL AND INTERSTATE; EXTRADITION, INTERSTATE; FAITH AND CREDIT; INTERSTATE LAW AND RELATIONS.

References: *Corfield vs. Coryell*, 4 Wash. C. C. 371; *Paul vs. Virginia*, 8 Wallace 168.

A. C. McL.

PRIVY COUNCIL. The descendant of the *curia regis* or permanent council. Itself an inner circle developed in a body which had become unwieldy, it has transmitted its active functions of advice and administration to a circle within itself, the Cabinet (*see* CABINET GOVERNMENT IN ENGLAND). The ordinance power of the Crown is still, however, exercised by orders in council, practically by representatives of the departments concerned; and administrative powers have been assigned to the Privy Council by numerous statutes, notably those concerning public health, and the Foreign Enlistment Act of 1870. The board of trade,

local government board, board of education and board of agriculture were all created as committees of the Privy Council. There are also permanent committees on universities, Scottish universities, municipal charters, and the affairs of Jersey and Guernsey. The judicial powers of the Privy Council are exercised by the judicial committee, which is a court of appeals for the empire, hearing cases from the colonial and Indian courts and the ecclesiastical courts, consular and prize courts and vice-admiralty courts. It consists (1911) of the Lord Chancellor and the lords of appeal in ordinary (who also constitute the House of Lords in its judicial capacity); the lord president of the council, ex-lords president, other members of the Privy Council who have held "high judicial office," two former Indian judges, five colonial chief justices, and either one or two other members of the Council by special appointment.

Membership in the Privy Council is by nomination by the Crown. There were, in 1911, about 295 members, including the princes of the royal family, the archbishops and the Bishop of London, members of the Cabinet and ex-members, several other principal officers of state and of the household, principal ambassadors, colonial premiers and many statesmen, politicians and men of distinction in arts, letters and science. Appointment is for the life of the sovereign and six months following; but in practice the new sovereign renews the appointment. The Privy Council meets as a whole on the succession of a new monarch, and may be summoned on other occasions of ceremony. At other times only those concerned in the specific business are invited.

See EXECUTIVE SYSTEM IN GREAT BRITAIN.

References: L. Courtney, *The Working Constitution of the United Kingdom* (1901); W. R. Anson, *Law and Custom of the Constitution* (3d ed., 1908), II, Pt. II; A. L. Lowell, *The Government of England* (1908); J. Macy, *The English Constitution* (1897); *Statesman's Year Book* (annual).

F. D. BRAMHALL.

PRIVY COUNCIL IN COLONIAL AFFAIRS.

After 1600 the council took an active part in colonial administration either through the lords of trade (*see*) or by its committees. It approved all charters, commissions and instructions, and, by orders in council gave ultimate sanction to the administrative, commercial, and military recommendations of the board of trade (*see*) and other governmental departments. On the advice of the board of trade or the law officers of the Crown it allowed or disallowed the acts of the colonial legislatures, and through its committee on appeals was the final court for the decision of all colonial cases. See BOARD OF TRADE; COLONIZATION BY GREAT BRITAIN IN AMERICA. References: C. M. Andrews and F. G. Davenport, *Guide to Manuscript Materials in the British*

Museum, etc. (1908), 170-174; C. M. Andrews, *British Committees . . . and Councils of Trade* (1908), 60-114; *Acts of the Privy Council, Colonial, Series* (1908), I, chs. xi-xvi, II, chs. xi-xxv.

E. K.

PRIZE CASES. In May, 1861, certain vessels and their cargoes were seized in Hampton Roads for an alleged violation of the blockade of the ports of the state of Virginia proclaimed by the President before any formal declaration of war with the Confederate States had been made by Congress; and the question discussed on an appeal to the Supreme Court from the decisions of the prize court in which the vessels had been adjudged to be lawful prizes of war was whether a state of war justifying a proclamation of belligerency and blockade could constitutionally be made by the President prior to any declaration of war by Congress ([1862] 2 *Black* 635). The conclusion reached by the majority of the court was that a state of war might exist authorizing a proclamation of blockade prior to a declaration of war by Congress and that the fact of the existence of a state of war was a political question as to which the action of the executive was conclusive on the courts. The theory of the dissenting judges was that while the action of Congress would be conclusive on the courts, the president had no authority under the Constitution to proclaim a blockade until Congress had acted. See **BLOCKADE; DECLARATION OF WAR.** Reference: J. R. Tucker, *Constitution of U. S.* (1899), II, 588-9.

E. McC.

PRIZE LAW AND COURTS. The title to property captured in time of war does not legally pass to the captor until adjudication by a prize court. "The right of capture is a limited right, is derived from the law, and is subject to all the restrictions the law imposes, and is to be exercised in the manner which its wisdom imposes" (The *Thomas Gibbons*, 3 *Cranch* 421).

In the United States the district courts are invested with the power of prize courts with appeal to the Supreme Court. The prize law of different states varies; some states follow the principle of the domicile of the owner as determining enemy character of property; other states follow the principle of the nationality of the owner. The methods of procedure in the prize courts of different states is usually similar. The trials therein are to be "according to the usage of nations and not by jury."

This American position that the prize court should administer international law is in accord with British precedent (The *Maria* [1799] 1 *C. Robinson, Admiralty Reports* 340). When administrative officers sit in the court, as in Russia in 1904, decisions are sometimes less acceptable to neutrals. The prize court does not usually give the same attention to minute technicalities as do other courts.

In 1907 propositions were made at the International Peace Conference at The Hague to establish an International Prize Court to decide questions on appeal from the decision of national prize courts. As cases of prize are essentially international questions there is ample reason for the establishment of such a court. A convention providing for such a court was signed, and duly ratified by the Senate, February 15, 1911, though with the proviso that a case referred to this court might be considered as coming before it *de novo*.

See **MARITIME WAR; PIRACY; PRIVATE PROPERTY AT SEA; PRIVATEERS; PRIZE MONEY.**

References: J. B. Moore, *Digest of Int. Law* (1906), VII, 584, 655; *U. S. Rev. Statutes* (1878), §§ 563, 1624, 4615-21.

GEORGE G. WILSON.

PRIZE MONEY. Till 1899 it was customary in the United States, and in many states it still is customary, for the prize court to distribute among the captors, even though they be of the public forces, the proceeds of the capture. It was formerly accepted that such a proceeding stimulated the loyal zeal of those engaged in war on the sea; though such ideas had long since been put aside in warfare on land. The United States by act of March 3, 1899 provides that:

All provisions of law authorizing the distribution among captors of the whole, or any portion, of the proceeds of vessels, or any property hereafter captured, condemned as prize, or providing for the payment of bounty for the sinking or destruction of vessels or the enemy hereafter occurring in time of war, are hereby repealed.

See **MARITIME WAR; PRIZE LAW AND COURTS.**

References: *U. S. Statutes at Large*, XXX (1897).

G. G. W.

PROBATE COURT. See **COURT OF PROBATE.**

PROBATION OFFICERS. Systems of public education do not work automatically, and wherever they are carried out there must be some system of supervision. In many places the police receive lists of children not accounted for and go to the houses and make inquiries. In Massachusetts and other states there is a much more effective system of truant officers or probation officers, who follow up lists given them by the school authorities; they not only try to restore the children to school, but are placed in charge of habitual truants. Probation officers are also appointed by juvenile courts and sometimes by other courts to look after delinquent young persons. Sometimes they are also put in charge of prisoners out on probation. The system is a valuable adjunct to the whole method of preventive discipline. See **CHILDREN, DEPENDENT, PUBLIC CARE OF; EDUCATION, COMPULSORY; PUBLIC MORALS, CARE FOR; SOCIAL REFORM PROBLEMS.**

A. B. H.

PROBATION OF PRISONERS. See PRISONERS, PROBATION OF.

PROCLAMATIONS, EXECUTIVE. These are issued by the executive in pursuance of constitutional or statutory powers and duties or with regard to matters which it is desirable to direct the public attention to. There is no general statute of Congress regulating their issuance. For many of them, such as the Thanksgiving proclamation, there is no provision at all. The few subjects on which the President may act with a specific authority conferred by Congress include: the sale of public lands, the establishment of forest reserves, the extension of copyright privileges to foreign citizens and subjects, the application of the minimum tariff of the Payne-Aldrich act to the imports coming from particular countries, the conduct to be observed toward alien enemies, the jurisdiction of foreign consuls over disputes among seamen, the suspension of discriminating tonnage duties on foreign vessels, closing a port of entry in case of insurrection, and exempting hospital ships from taxes and pilotage duties in time of war. The great range which the use of the proclamation may cover was well illustrated in the administration of President Lincoln. His powers were, of course, vastly increased by the existence of war. He issued proclamations admitting West Virginia and Nevada as

states, suspending the writ of habeas corpus at various times and in various places, calling for militia and volunteers, establishing and raising blockades, forbidding intercourse with Confederate states declaring the forfeiture of property, regulating the collection of taxes in the South, offering pardon to deserters, extending amnesty to rebels and providing for the recognition of state governments in the South, emancipating the slaves, calling the Senate and Congress into special session, appointing a day of prayer, a national fast day, a day of thanksgiving for victories, subjecting to military service aliens who had declared their intention of becoming citizens and subjecting to court-martial those guilty of furnishing arms to the Indians. In some of these cases Lincoln acted with clear legal warrant; in others with doubtful authority, as was seen when the Supreme Court condemned his suspension of the writ of habeas corpus outside the theatre of war. It is customary for the executive department concerned to draft the proclamation. Thus in two cases President Harrison used, with some alterations, drafts of the Thanksgiving proclamation prepared by the Department of State and in the two other cases wrote the proclamation himself. See GOVERNOR; MESSAGES; EXECUTIVE; PRESIDENT. **Reference:** J. A. Fairlie, *The National Administration of the United States* (1905), 41-42. CHARLES A. BEARD.

PRODUCTION

Definitions.—Fundamental to all production are the wants of human beings. Effectiveness for the satisfaction of want is termed utility. Not all useful things need to be produced; some of them, *e. g.*, air, are to be had in sufficient supply without any need of effort or attention. These are called free goods. Only goods that are both useful and, relatively to the need for them, in some measure scarce can require to be produced and can as product indemnify the producer of them for his costs of production. Such useful and scarce goods have value; having value, that is the power of purchasing other things, they become profitable of production if their costs are not out of proportion to their value. Whether then, after all, the process of producing these goods is remunerative to the producer depends in part upon what they will sell for and in part upon what it costs to produce them (*see* COST, ECONOMIC).

Valuable Goods.—Economic products are divided into two classes called: (1) wealth; (2) services: wealth including all relatively permanent items of value, like cloth, wheat, lumber; services connoting such evanescent yet useful facts as the effects from singing, preaching, teaching, or acting. The maker of a

violin produces wealth; the player of it produces services. Either is economically productive, as is proved by the fact that either commands payment. The servant or the advising physician furnishes something that we desire and something so far scarce that we must pay for it in order to have it. Good advice may afford more benefit than an equally costly drug; pills are wealth; advice is service.

The amount of valuable goods that can be consumed depends upon the volume which is produced. It follows that the average or per capita production of valuable goods—inclusive both of wealth and services—in any society, and thereby the average or per capita command of economic welfare in that society is conditioned: (1) upon the quality of the human laborer as producer; (2) upon the social and institutional conditions within which the laborer works; (3) upon the environmental situation. This same fact may be restated to assert that the standard of living in any society reflects the average or per capita production and is derivative from it. Thus, the great economic prosperity of America is due in large part to its abundance of fertile land and to the other great natural resources and opportunities which the continent presents—great stores of gold,

silver, iron, copper, lead, and coal; wide expanses of forests; great natural advantages for transportation; an especially favorable climate. With about one-eighteenth of the population of the world, this continent produces three-fourths of the maize, more wheat than any other one country, one-third of the oats, two-thirds of the cotton, one-half of the iron, one-fourth of the gold, three-sevenths of the lead, two-fifths of the coal (and, exclusive of the United Kingdom, more than all the rest of the world combined), three-fifths of the copper, one-third of the zinc.

Not only does the per capita output of America advantage greatly by the generous environment, but perhaps even more by the average productive efficiency of the American as economic producer. The American laborer is vigorous of body, rapid of movement, industrious, intelligent, and inventive, and enjoys in especial degree the aid of the world's best attainments in the science and technique of industry, both in the methods of industry and in the equipment of instrumental goods—tools, machines, and appliances; that is to say, in the stored up products of earlier labor set aside for further production.

Something further deserves to be said as to the scientific and institutional situation, and particularly as to the prevailing organization of the processes of production. Most important among the characteristics of man as producer are his intellectual powers and acquirements. If we compare modern industrial processes with the methods of ancient times, we get some notion of the importance of science and art in production. Especially in the world of economics is it true that knowledge is power. The savage made an enormous step forward when he acquired the knowledge of the bow and the rod. Tools increase by many fold the effectiveness of human energies. But when, by the use of machinery, man has harnessed to his aid the forces of nature, the field of progress is indefinitely widened. And behind the art and the skill in all these processes and methods, there is a world of pure science. No one has grown more grain than the chemist. The investigators and the inventors have revolutionized the opinions and the organization of the modern world. The ruling forces of civilized life are the intellectual forces. The moral code of eighteen hundred years ago left, indeed, not much to be added. Laws, governments, institutions, science, art, invention, and discovery, these are the facts which measure the distance between civilization and savagery. In these directions the progress of mankind is seemingly without limit (*see* DIVISION OF LABOR).

Productive Wealth.—Production in a competitive society taking place commonly and typically for purposes of sale in the market, each producer must aim at results in terms of price. It is in terms of the price which he receives, and as limited by it, that he comes

into command of the other things that satisfy his needs. Productive, therefore, are those instruments and agents which bring about or aid in bringing about a result to which there attaches a price. It matters not for this purpose—but only for purposes of ethical estimate and social appraisal—that the result may or may not be a pernicious thing, or even that, from the point of view of social welfare, the gain rendering process be essentially predatory. Whiskey, peruna, hop bitters, corsets, ribbons, caviare and mince pie are products marketable at a price; therefore the labor and equipment employed in their production must be accounted productive. So burglars' jimmies are productive by the mere fact that they render a price gain to the owner, either through renting them or through direct use.

Nor is the materiality or the tangibility of the product relevant for the purpose: actors, teachers, preachers, lawyers, all do things that men are content to pay for. Wages are earned by winning bad law suits, by writing advertising lies, by libeling a rival candidate, or by setting fire to a competitor's refinery.

Factors of Production.—The factors of production, so-called, are commonly distributed into three classes—land, labor, and capital. All production, and therefore all income, whether socially or individually viewed, must be due either to: (1) human activity, (2) human possessions. The productive, or gainful, or acquisitive, activity of human beings is called labor. Human labor, is either: (1) employed labor remunerated in wages (inclusive of salaries, fees, etc.); (2) the labor of the employer remunerated in profits (*see*). Wages connote the intermediation of an employer; profits are remuneration received without the intervention of an employer.

All incomes from possessions, property or capital, trace back either to natural sources of income, commonly called land, or to artificial sources, commonly called capital (*see*). But land as well as any other item of productive property ranks in the business man's computation as capital, by the sole and ultimate test of rendering an income.

See COST, ECONOMIC; ECONOMIC THEORY, HISTORY OF; LABOR; PRICE, ECONOMIC THEORY OF; PROFIT.

References: H. E. Gregory, A. G. Keller, and A. L. Bishop, *Physical and Commercial Geography* (ed., 1910), ch. 7; J. S. Mill, *Principles of Pol. Economy* (ed., 1909), I, chs. i, ii, vii, viii, ix; A. Marshall, *Principles of Economics* (4th ed., 1898), Bk. II, chs. i–iii, v, vi, viii, ix, xi–xiii. H. J. DAVENPORT.

PROFESSIONAL SCHOOLS, PUBLIC. *See* SCHOOLS, PUBLIC, PROFESSIONAL.

PROFESSIONS AND CALLINGS, PUBLIC REGULATION OF. Under its police power the state may impose conditions upon admission

to any professions or callings whose regulation is justified in the interest of society, in order to protect the public health, safety or morals, or to guard the public from fraud, crime or disorder. A calling or profession legitimate in itself may not be altogether forbidden, unless the dangers arising from it clearly outweigh the possible advantages; and every public regulation of legitimate callings or professions must bear some direct and appreciable relation to possible dangers or abuses arising in connection with such calling or profession. The state may impose reasonable restrictions upon the practice of any calling which requires special knowledge, experience or skill. The state control of professions and callings is exercised primarily for the purposes of preventing crime or its concealment, of preventing fraud, of protecting morals and order, and of protecting the health and safety of the community.

Licenses and Certificates.—The method ordinarily employed in the United States for the regulation of professions and callings is that of licensing, licenses ordinarily being granted as a result of examinations or other tests of competency; and persons without licenses being forbidden to engage in such professions or callings.

Another method of control, but less often employed in the United States, is that of issuing certificates to those who comply with certain tests, but without forbidding the exercise of the profession or calling to those without such certificates. This second plan is not a safe one with respect to trades and professions closely affecting the public health or safety, but has been employed with respect to accountants and nurses. What the government does in such a case is merely to certify to the competence of the person having a certificate, thus giving him an advantage with the public, as against his competitors who have not complied with the test necessary to obtain such a certificate.

Law and Medicine.—Of the professions subject to public regulation, the most important are those of medicine, pharmacy, dentistry, veterinary surgery, architecture, public accountancy, and the practice of law. The professions concerned with the treatment of disease and the sale of medicine are usually subject to strict regulation; and properly so, inasmuch as they deal most closely with matters of public health. The practice of law is subject in most states to a similar strict control, and the requirements for admission to the bar have been materially raised in a number of the states during the past twenty-five years. It is almost universally recognized that grave abuses are likely to arise from the admission of incompetent persons to practice a profession which bears such a close relation to the administration of justice. The Indiana constitution (1851), however, provides that "every

person of good moral character, being a voter, shall be entitled to admission to practice law in all courts of justice." In general the legislatures have power to prescribe regulations for admission to the bar, but the supreme courts of Pennsylvania and Illinois have held that the practice of law is so closely related to judicial functions that the legislature may not prescribe conclusively the conditions for admission to the bar. The power to disbar an attorney for improper practices is one exercised by the courts.

Architects and Accountants.—The right to practice as an architect is one not so generally subjected to public regulation, but there is a tendency to make the practice of this profession subject to the condition that a license shall first be obtained. As to the profession of accountancy it has already been suggested that in the states where it is regulated, the tendency is not to set up conditions without compliance with which no one shall practice, but rather to grant certificates of competency to those meeting certain requirements, and also to permit practice by those not having such certificates.

Various Callings.—Of callings subject to regulation, those of plumbers, barbers, and nurses are regulated in the interest of public health; builders, locomotive and stationary engineers, and mining engineers, are regulated in the interest of the public safety; auctioneers and employment agents, largely to protect from fraud; and to this list may be added a great number of other occupations which in recent years have been subjected to public regulation. Laws have been enacted, for example, regulating the business of horse-shoeing. Recent Illinois legislation which goes very far in regulating a hazardous occupation, but which has been upheld by the state supreme court, directly requires coal miners to pass examinations and obtain certificates, the law providing that no one be employed in a mine unless he has a certificate or unless he is working with a miner who has such a certificate.

See **BILLS OF RIGHTS; BUSINESS, GOVERNMENT RESTRICTION OF; EXAMINATION FOR EMPLOYMENT AND PROFESSIONS; HEALTH, PUBLIC, REGULATION OF; LABOR, FREEDOM OF; LABOR, WOMEN'S, LEGISLATIVE CONTROL OF; LICENSES FOR CALLINGS; POLICE POWER; PRIVILEGES AND IMMUNITIES.**

W. F. DODD.

PROFIT SHARING. Profit sharing is an arrangement between employers and employees usually initiated by the former from a desire to share prosperity resulting from joint enterprises, and to stimulate greater efficiency on the part of employees. It takes the form of: (1) stock ownership, stock often being obtained on terms more favorable than the public acquires it, and bought on installments; (2) cash bonus, proportionate to wages; (3) deferred participation in profits

where a percentage of profits is credited to special funds to meet future needs of employees. The cash bonus is the most popular form. It is generally in use in department stores, and in large, highly organized industries not without attendant evils in exploitation of lower grades of labor. See COÖPERATION; WELFARE SYSTEMS. References: N. P. Gilman, *Profit Sharing and Coöperation in the United States* (1900), *Methods of Industrial Peace* (1904); H. R. Burch, and Scott Nearing, *Elements of Economics* (1912).

S. McC. L.

PROFITS. The quest of the business man is commonly asserted to be the maximum net profit to himself. Obviously, however, he is concerned to derive from his capital its maximum possible return interest, from his lands the maximum rent, from his machinery its maximum product or hire. Used to connote all of these returns or gains, the term profit is inaccurately employed and comes to be practically interchangeable with income. Profit in the restricted and technical sense is something more specific and distinctive; it is the share accruing to the independent business operator—as distinguished from the employee—for his own personal gain-acquiring function (see WAGES).

When funds are lent to a borrower, some charge, or premium, representing risk, is commonly present in the rate paid and is commonly designated broadly as interest. This risk share is, accurately speaking, risk interest. So if one employs his own capital in hazardous ways, his return, if return there be, must include some indemnity for the danger incurred of losing his capital. This risk charge, also, is properly ranked as risk interest rather than as risk profit. Only when the reward received is an indemnity for the possible loss of one's time and effort is the return accurately to be regarded as risk profit. But there is widespread confusion in this regard. The usage is not in full accord with the logic.

The relation of profits to cost of production has been the occasion of much perplexity and of much inaccuracy of statement. It is not true that profit is a surplus above cost. Necessary profit—that portion of profit which must be received to hold the producer in business as against his best alternative opening or investment—falls within cost. Only unnecessary, or surplus, profit is a surplus above cost (see).

Distributively viewed, profits are that share out of the joint value—product of several co-operating factors which accrues to the entrepreneur as a remainder after all the other shares have been computed and allotted—rent, interest, wages, etc.

See LABOR; PRODUCTION.

References: T. N. Carver, *Distribution of Wealth* (1901), ch. vii; A. Marshall, *Principles of Economics* (4th ed., 1898), VI, chs. vii,

viii; F. A. Fetter, *Principles of Economics* (1904), ch. xxxi; J. S. Mill, *Principles of Political Economy* (ed., 1909), II, ch. xv; H. J. Davenport, *Value and Distribution* (1907), ch. viii.

H. J. DAVENPORT.

PROGRESSIVE LABOR PARTY. The name adopted by the socialistic element that seceded from the United Labor Party at Syracuse, N. Y., Aug. 19, 1886. See LABOR PARTIES; SOCIALIST LABOR PARTY.

O. C. H.

PROGRESSIVE PARTY. Name officially adopted by the Progressive convention at Chicago, Aug. 7, 1912. The party arose out of two converging forces:

(1) A general movement for a broader range of government, particularly in national affairs began in 1909 (see PROGRESSIVES); it aimed to compel the Republican party (see) to take up new principles; and the leaders expected to bring over to their point of view sufficient Republicans to give them permanent control of the party.

(2) At the Republican national convention at Chicago, in June, 1912, Theodore Roosevelt (see) was supported by most of the former Progressives and also by complete or partial delegations from Republican states, such as Pennsylvania and Illinois, mostly gained through primaries for members of the convention.

When their candidate lost the Republican nomination, as his supporters believed because of unfair tactics, at a mass meeting in Orchestra Hall on the evening of June 22, 1912, Roosevelt was informally nominated as the candidate of a new political organization.

For some time it was uncertain whether the Roosevelt men would call themselves Progressive Republicans and act within the Republican party, with a view to capturing its organization; or would form a third party. At a convention which met in Chicago Aug. 5, made up wholly of Roosevelt men from 47 of the 48 states, chosen in informal ways, the name Progressive was formally adopted. Theodore Roosevelt was nominated for President and Hiram Johnson, Governor of California, for Vice-President; and an elaborate platform was adopted.

In California, Pennsylvania, and some other states, the adherents of the new party for the time considered themselves still within the Republican party.

In the presidential election of November, 1912, the Progressive Party carried one state on the state ticket, cast 4,123,206 popular votes, and elected 88 presidential electors. Many of the former Progressives did not come into the Progressive party; and it drew some voters out of both Republican and Democratic ranks, who had not been Progressives before 1912. In 1913 the latter began noticeably to drift back to the old parties.

See CONVENTION, POLITICAL; DEMOCRATIC PARTY; PLATFORM, POLITICAL; PRIMARY, PRESIDENTIAL PREFERENCE; REPUBLICAN PARTY; SOCIALIST PARTY; THIRD PARTIES.

References: Theodore Roosevelt, *Speech*, Aug. 6, 1912, in *Chicago Tribune*, Aug. 7, 1912 and *New York Times*, Aug. 7, 1912; Progressive National Convention, *Official Proceedings*, 1912; A. B. Hart, "A New Party, the People Want It" in *Review of Reviews*, XLII (Aug. 1912), 197-200; *Am. Year Book*, 1912, 1-14, 20-27, 34-44, and year by year.

A. B. H.

PROGRESSIVE TAXATION. See TAXATION, PROGRESSIVE.

PROGRESSIVES. Conflicts within the Republican Party.—Since the Civil War four serious splits have threatened the Republican Party: the Liberal Republican (*see*) movement of 1872; the Mugwump (*see*) movement of 1884; the silver controversy (*see*) of 1890; and the progressive movement which came into prominence under that name in 1910. Of these the most serious, because appearing in the largest number of states and involving the most determined internal struggle, is the progressive movement. In origin this movement springs from the belief of a considerable number of Republicans, reflected through their representatives in Congress and then through state legislatures, that the party was too much under the influence of "the interests." The Silver Republicans from 1890 to 1894 laid hold of this principle in their passionate protest against "gold bugs"; and their movement had its origin in the belief that the accepted commercial and financial system of the United States gave to the eastern communities an undue share of the profits and advantages of the common national prosperity. The movement for regulation of the railroads culminating in the Interstate Commerce Act (*see*) of 1887, was based upon the same conviction—that corporations had things too much their own way out of doors, and had too much influence on Congress and the state legislatures. The trust problem, which, to the public mind, was a problem of commercial and financial corporations rather than of railroads, intensified this sense of protest. The earliest evidence, however, of the spirit in the party was the protest of certain western members, particularly from Minnesota, against the three successive Republican tariffs, the McKinley tariff of 1890, the Dingley tariff of 1897, and the Payne-Aldrich tariff of 1909. The Populist and silver movements broke up the tradition that states like Kansas and Minnesota were solidly and permanently Republican in politics. A few Populists and eventually a few Democrats were returned to Congress from those communities. Their protests, however, had very little effect.

The friction within the party was much increased by the opinion of a vigorous minority of the party that the organization of the House of Representatives gave too much power to the Speaker, and that his appointments and favors usually went to those who supported what by 1910 was familiarly called the "stand-pat policy"—that is, the policy of adherence to existing legislation on the tariff, railroads, trusts, taxation, and conservation.

Insurgency on the Payne-Aldrich Tariff.—In 1909 about a score of the Republican Representatives refused to support the pending tariff bill, and in the next session, as a result of the congressional election of 1908, this body of so-called insurgents (*see*) mustered 40 votes in the House and eight in the Senate. They combined with the Democrats to overthrow the power of the Speaker, and seriously to amend railroad and other legislation.

Progressive Republicans.—In the congressional campaign of 1910, the insurgents showed such strength that it was no longer possible to treat them simply as an insubordinate and troublesome faction of the party. They took upon themselves the title of Progressive Republicans. The most aggressive and influential of them were Senator La Follette, of Wisconsin, Senator Cummins, of Iowa, Senator Dooliver, of Iowa, and Senator Beveridge, of Indiana, who, however, lost his seat, and retired in March, 1911. The political influence of the progressives was felt by both parties. Some of them deadlocked with the standpatters in their districts, and through the dissensions in the ranks of the Republicans the Democrats were able to make a net gain of 51 seats in the House, and to capture nine state legislatures from the Republicans. In the Senate of the Sixty-second Congress however, a combination of Democratic and progressive votes was necessary to carry a measure against the regular Republicans. In the senatorial elections of the early part of 1911, the term "progressive" was given a wider signification through the action of a small body of "Progressive Democrats" in the Democratic legislature of New York, who stood out against a senatorial nomination which they thought unfit. Of the old-line leaders of the regular Republicans, two, Senator Aldrich of Rhode Island, and Senator Hale of Maine, declined to stand for reelection. Others, like Senators Lodge and Crane of Massachusetts and Senator Penrose of Pennsylvania, stood out against a more moderate policy. By the beginning of the presidential campaign of 1912, the progressive movement had acquired such strength that the Progressive Republicans attempted to take possession of the party and to dictate its platform.

Principles of the Progressive Republicans.—Until the formation of the Progressive party (*see*) the general principles of the Progressive Republicans were not authoritatively defined but the early canons of the progressives may

be deduced from state platforms and from the speeches of the acknowledged leaders. In the first place they were bent on changing the political machinery of the Republican party. Senator La Follette began the campaign in Wisconsin, where, after service as representative in Congress, he became governor, and subsequently United States Senator in the face of the opposition of the party machine. To break the power of the organization he advocated, finally secured in his own state, and thereby set an example for other states, direct primary (*see*) nominations of state officials and of Representatives in Congress. In other states, particularly Oregon, this principle was extended to the expression of a ruling preference for United States Senators in the primaries. This device enabled the progressives to elect a large number of members of Congress who owed no allegiance to the old-line party managers. The initiative and referendum in state government followed close after the primary system in several states, and was favored by most of the progressives.

The second main principle of the progressives was hostility to all kinds of powerful corporations, especially railroads and great industrial combinations exercising an approach to monopolistic control over certain industries. Hence, the progressives favored more and more stringent legislation; they helped to carry against the standpatters the statute of 1910 extending the powers of the Interstate Commerce Commission (*see*), and they supported prosecutions of corporations under the Sherman Act (*see*) of 1890.

In the third place, the progressives advocated a reduction of the tariff, the question upon which their strength was first revealed. They fought for a lower rate of duties in the act of 1909, and accused the stand-pat leaders of trickery and evasion of platform obligations. Their point of view was, however, much affected by the reciprocity legislation of 1911, which was carried by a combination of some of the regulars with the Democrats. It proved that the constituents of many of the progressives, especially in the northwestern states, objected to the free entry of Canadian farm products. The rejection of reciprocity by Canada (*see*), therefore, released the progressives from a painful dilemma.

Formation of the Progressive Party.—Among the leading, though unofficial, heads of the progressive movement, was Theodore Roosevelt, ex-President of the United States. On August 31, 1910, Roosevelt laid down a platform in seventeen planks which he called the "New Nationalism." This platform included most of the points made by the Progressive Republicans, and many which in the campaigns of 1892, 1896 and 1900 had been put forward by the Democratic leader, Mr. Bryan. It advocated thorough supervision of trusts and corporations by a federal agency on conservation,

the direct primary, and the recall of elective officials.

Early in 1912 the Progressive Republicans declared themselves opposed to the renomination of President Taft by the Republican Party and prevailed upon Roosevelt to offer himself as a candidate for the Republican nomination. The defeat of their candidate in the Convention, the progressives attributed to fraudulent decisions of the Republican National Committee in a large number of contests between delegates representing the opposing factions. A convention of progressives was accordingly held in Chicago, August 5-7, 1912, which resulted in the formation, under the leadership of Theodore Roosevelt of the Progressive Party (*see*), in which the progressive elements of both parties were thenceforth merged.

See INDEPENDENT MOVEMENTS IN POLITICS; INSURGENTS IN CONGRESS; NOMINATION OF THE PRESIDENT; PARTIES, STATE AND LOCAL; PARTY, PLACE AND SIGNIFICANCE OF; PROGRESSIVE PARTY; PUBLIC OPINION AND POPULAR CONTROL; REFORM MOVEMENTS, POLITICAL; REPUBLICAN PARTY; THIRD PARTIES; VOTING, INDEPENDENT.

Reference: *American Year Book*, 1910, 31-54, 1911, 68-71, 1912, 1-44, and year by year.

ALBERT BUSHNELL HART.

PROHIBITION. The first state-wide prohibition law was enacted in Maine in 1846. It was a crude measure and could only be made partially effective because it contained no adequate provision for the punishment of violations or for the seizure of liquors held for sale. A new measure was therefore enacted on April 29, 1851. It was the first full-fledged prohibition law and became famous the world over as the Maine Law. In 1856 public sentiment changed and swept away all this legislation with its numerous amendments and substituted a license law. In 1858 the question of license or prohibition was again submitted to the voters and a new prohibition law was adopted. An amendment to the constitution of the state of Maine prohibiting the manufacture and sale of liquors was adopted in 1884. Since 1850, 24 states and territories have at some time adopted prohibition, but in 1912 only 8 of them remained under prohibition, although the adoption of the prohibition amendment in West Virginia, to become effective July 1, 1914, will bring the total up to 9. The tabular statement below shows the dates on which prohibition was adopted and repealed in the different states.

In a number of other states the question of adopting prohibition has been submitted to the electorate and rejected. Thus in 1910, the states of Missouri, Florida, Utah and Oregon rejected state prohibition, as did, in 1911, the state of Texas, and, in 1912, the state of Colorado.

PROHIBITION PARTY

PROHIBITION BY STATUTE OR CONSTITUTIONAL PROVISION

State	Adopted	Repealed
Illinois -----	1851	1853
Massachusetts -----	1852	1868
	1869	1875
Rhode Island -----	1852	1863
	1874	1875
	1886	1889
Vermont -----	1852	1903
Connecticut -----	1854	1872
Delaware -----	1855	1857
Indiana -----	1855	¹ 1858
Iowa -----	1855	² 1894
Michigan -----	1855	1875
Nebraska -----	1855	1858
New Hampshire -----	1855	1903
New York -----	³ 1855	----
Wisconsin -----	³ 1855	----
Maine -----	1858	----
Kansas -----	⁴ 1867	⁵ 1879
	1880	----
South Dakota -----	1885	1896
Alaska (territory) -----	1887	1899
North Dakota -----	1890	----
Georgia -----	1907	----
Oklahoma -----	1907	----
Alabama -----	1908	1911
Mississippi -----	1908	----
Tennessee -----	1909	----
North Carolina -----	1909	----
West Virginia -----	1912	----

¹ Declared unconstitutional.

² Partial law only in 1855; reenacted more completely in 1885.

³ Vetoed by governor.

⁴ Partial law only.

⁵ Superseded by constitutional prohibitory amendment.

In the nine states at the present time under prohibition, namely, Maine, Kansas, North Dakota, Georgia, Oklahoma, Mississippi, Tennessee, North Carolina, West Virginia, the manufacture as well as the sale of alcoholic beverages is prohibited. The manufacture of cider and wine for home use is generally permitted.

See DRUNKENNESS, REGULATION OF; LIQUOR LEGISLATION; LIQUOR LICENSES.

References: Committee of Fifty, *Liquor Problem in its Legislative Aspects* (1878 ed.), 1-140; Joseph Rowntree and Arthur Sherwell, *Temperance Problem and Social Reform* (1900 ed.), ch. iii; H. Joyce, *Law Relating to Intoxicating Liquors* (1910); E. L. Fanshaw, *Liquor Legislation* (1893); J. Koren, *Economic Aspects of the Liquor Problem* (1899); R. Calkins, *Substitutes for the Saloon* (1901); *Am. Year Book*, 1910, 407, 410, 414, and year by year; bibliography in A. B. Hart, *Manual* (1908), § 228. JOHN KOREN.

PROHIBITION PARTY. The Prohibition party has been the longest-lived of all third parties in this country. Its fundamental principle is the opposition to the manufacture and sale of intoxicating liquors, for purposes other than their use in art, science or medicine. The prohibition movement was active long before it was taken into politics. Only when the principles of prohibition were not taken up by an existing party, was a distinct party formed. In 1869, a meeting was held at Oswego, N. Y., and a committee was appointed

to prepare a party organization. In some states, the Prohibitionists had candidates before the first national convention of the party, which was held at Columbus, Ohio, February 22, 1872. Nine states were represented by 194 delegates. The platform favored the legislative prohibition of the sale of intoxicating liquor, abolition of the fee system, lower rates of postage and transportation, suffrage for women and promotion of immigration. James Black of Pennsylvania, was nominated for President, and received a popular vote of 5,608, almost all of the votes being cast in Ohio, Pennsylvania and Michigan.

The second convention of the party was held at Cleveland, Ohio, in May, 1876. Green C. Smith was the presidential nominee of the Prohibition Reform party, as it called itself. In the preamble of the platform, it stated that the party was "organized to revive, enforce, and perpetuate in the government the doctrines of the Declaration of Independence." It advocated prohibition by Congress of importation, exportation, manufacture and traffic in alcoholic beverages in all places subject to the control of Congress; an amendment to the Constitution to make prohibition permanent and universal; treaty stipulations to prevent importation or exportation of alcoholic beverages. It also advocated equal suffrage, reductions in transportation charges, suppression of lotteries, abolition of polygamy, observance of the Sabbath, compulsory education, use of the Bible in schools, international arbitration, civil service reform, protection to immigrants, reduction of salaries of public officials. A popular vote of 9,522 was cast, mostly in New York, Ohio, Nebraska and Pennsylvania.

In 1880, the convention was again held at Cleveland, Ohio. Twelve states were represented by 142 delegates. Neal Dow of Maine was nominated for President, on a platform similar to the one of 1876. The popular vote was 10,305, of which 2,616 were cast in Ohio.

In 1884, there were the American Prohibition, and the regular, or Prohibition-Homestead, parties. The former held a mass convention at Chicago, and nominated S. C. Pomeroy for President. The regular Prohibitionists met at Pittsburgh, and nominated John P. St. John for President. In the platform adopted, both the Republican and Democratic parties were arraigned for their records on the liquor question. The platform was rather long, with much of the "stump speech" in it. The popular vote went up to 150,369, and of these votes, 25,016 were cast in New York. Since the Democratic plurality in that state was only 1,149, it is readily seen that the Prohibitionists held the balance of power there. This was also true of Connecticut and New Jersey. Clinton B. Fisk was nominated for President in the Indianapolis convention of 1888, in which almost all the states were represented and all the former candidates for

President except one were present. In addition to its former principles, the party advocated the protective system. The popular vote was 250,125, enough in Connecticut, Indiana, New York, Ohio and Virginia to have changed the electoral vote of those states. In 1892 John Bidwell was nominated for President. The platform contained the usual provisions, and also equal salaries for women, government control of corporations, new naturalization laws, opposition to sectarian schools. The popular vote was 271,058, an increase of about five thousand over the preceding presidential vote.

In the campaign of 1896, there was a split in the party over the silver question (*see SILVER COINAGE CONTROVERSY*). Four years before this question was a prominent one in the convention, and the provision for free and unlimited coinage of silver had been voted down by a vote of 596 to 335. In the Pittsburgh Convention of 1896 were two factions, the "narrow gaugers," opposed to the free-silver principle, and the "broadgaugers," favoring the inclusion of several other planks in the platform, in addition to the usual liquor provision. The "narrow gaugers" won the preliminaries, and the majority report of the committee was a platform directed against the liquor interests. The defeated faction withdrew from the convention, and the remaining delegates nominated Joshua Levering for President. The "broadgaugers" met and organized the "National" party. In addition to the plank on the liquor question, the principal planks were for the free and unlimited coinage of silver at the rate of 16 to 1, without consulting other nations; a national income tax; abolition of the contract labor system; direct election of President, Vice-President and United States Senators; exclusion of alien paupers and criminals; initiative and referendum; proportional representation. Rev. Charles E. Bentley was nominated for President. The popular vote was 141,676, about one-tenth of which was cast by the "broad gaugers."

In recent years the party has been united. The platform of 1908 was a short one: in addition to the usual provision on the liquor question, it advocated the election of Senators by popular vote, a graduated income and inheritance tax, postal savings banks, a permanent tariff commission, uniform marriage and divorce laws, employers' liability act, court revision of post office decisions, prohibition of child labor in mines and workshops, intellectual test for voting, conservation of resources, improvement of highways and waterways, and equal suffrage for women. E. W. Chafin was the presidential nominee. The popular vote was 252,683. The same candidate was nominated in 1912 and received a popular vote of 207,965. The platform in addition to the usual planks contained the following: one presidential term of six years;

protection of the rights of labor without impairment of the rights of capital; arbitration for international disputes; initiative and referendum; an elastic currency adequate to industrial needs; regulation and control of corporations engaging in interstate business; greater efficiency and economy in Government service. The Prohibition party has never elected a presidential elector, and is not likely to become a great party, but it has had a great influence. The anti-saloon league, state provisions for local option and other movements have probably been responsible for the loss in Prohibition votes.

See LIQUOR LEGISLATION; PRESIDENTIAL ELECTIONS.

References: J. A. Woodburn, *Pol. Parties* (1909), 142; D. R. Dewey, *National Problems* (1907), ch. viii; E. Stanwood, *Hist. of the Presidency* (1898), *passim*; T. H. McKee, *National Conventions and Platforms* (1901).

T. N. HOOVER.

PROMOTIONS IN THE CIVIL SERVICE.

Advancement in rank or salary in the civil service is generally in the control of the appointing power. Legislative bodies, however, in exercising their power to create positions and appropriate for their salaries, not infrequently provide for the promotion of particular individuals or classes of employees. The framers of civil service laws in this country have recognized that promotions as well as original appointments in the public service have been governed by political influences wherever the spoils system has prevailed and have therefore inserted provisions for their regulation. Nevertheless the principle of promotion based upon competitive examination has not generally been carried out. It is recognized that the actual record of work performed by the employee during his service is a factor of importance in determining his qualification for promotion, and by many persons it is believed that this factor should alone control. The United States Civil Service Commission has not as yet attempted to introduce competitive examinations for promotions to any considerable extent, although it has encouraged and approved department regulations providing for the keeping of efficiency records as a basis for promotion. Article V, Sec. 9 of the New York state constitution requires promotions, as well as original appointments, to be "made according to merit and fitness, to be ascertained, so far as practicable, by examinations, which so far as practicable, shall be competitive." Competitive promotion examinations always take into account the previous service of the candidates as shown by department records and to this as well as to seniority in service a considerable weight is given. These examinations have reached their highest development and proved most successful in the New York City

service, particularly in the police and fire departments. Increases in salary as well as advancement in position are recognized by law as promotions and the civil service commission is empowered to establish salary grades for purposes of promotion examination.

See APPOINTMENTS TO OFFICE; CIVIL SERVICE EXAMINATION; CIVIL SERVICE, FEDERAL; CIVIL SERVICE, STATE.

References: Civil Service Commission, U. S., New York State, New York City, Chicago, etc., *Reports*; National Civil Service Reform League, *Publications*, especially Special Committee on Promotions in the Civil Service, *Report*, 1910; E. B. K. Foltz, *Federal Civil Service as a Career* (1909), 179-185.

ELLIOT H. GOODWIN.

PROPERTY, RIGHTS OF. Conceptions of property rights as well as of personal freedom antedate organized government and therefore do not spring from but are merely recognized by the American state constitutions which were designed for the protection of the people in the enjoyment of their rights and liberties by the establishment of a more perfect system of government than that to which the colonists had been subject. The nature and extent, therefore, of property rights and the remedies available for their protection must be determined by the rules and principles of the system of law which prevailed in the colonies and was recognized under the governments established by the people with such modifications as were introduced by subsequent legislation. Our written constitutions, therefore, guarantee and protect property rights but do not create them. The fundamental constitutional conception is that it is beyond the power of government to take property from one person in order to confer it upon another or to interfere with the enjoyment of private property save for some of the recognized purposes for which governments are created and established.

But some interference with the ownership and use of private property is inherently necessary in the exercise of the functions of government. Thus it may be necessary to appropriate private property for public use (see EMINENT DOMAIN). Interference with the use of property or even its entire destruction may be essential for the protection of the government, as in military operations; or for the protection or preservation of the paramount interest of the public, as in the prevention or suppression of disease or in avoiding overwhelming disaster to many; or for the protection of individuals from injury or damage which would result from the unreasonable exercise of his property rights by another.

For its own support and in order to provide for the discharge of its proper functions government may properly exact the payment of taxes which may, among other methods, be

levied on the owners of property in proportion to its value, the limitation on this power being that the burdens of government shall not be unjustly and without reason imposed upon particular persons or classes of persons in order to relieve other persons or classes from bearing their just proportion.

In the exercise of the police power already referred to those who devote their property to a public use so as to affect it with a public interest may be required to do so under reasonable regulations as to rates and charges and without unreasonable discrimination (see *MUNN VS. ILLINOIS: PRICES AND CHARGES*).

The essential constitutional guaranty of property rights is that no person shall be deprived of his property without due process of law (see DUE PROCESS OF LAW), a provision founded upon Magna Charta and embodied in some form in all state constitutions and now effectually guaranteed against federal encroachment by the Fifth Amendment and against state encroachment by the Fourteenth Amendment to the Federal Constitution. The reduction of rates and charges in such a degree as to deprive the owner of property of reasonable returns has been held to be a deprivation of property without due process (*Smyth vs. Ames*, 169 U. S. 466).

See BILLS OF RIGHTS; FOURTEENTH AMENDMENT; POLICE POWER; PUBLIC USE.

References: F. J. Goodnow, *Social Reform and the Constitution* (1911), 23, 264-274; T. M. Cooley, *Principles of Constitutional Law* (3d ed., 1898), 206, 246, 260, 345-377.

EMLIN MCCLAIN.

PROPERTY TAX. See TAX, PROPERTY.

PROPERTY, THEORY OF. Whenever and wherever there is any appropriable thing which is scarce relatively to human desires, that is, when there is not enough of it to go around and satisfy every one, then and there men will try to get more of it. But the very condition of scarcity makes it inevitable that if some get all they want others will get less than they want, and some may not get any at all. In the absence of any social regulation or law, written or unwritten, regarding it, there is likely to be a general scramble, each one getting what he can and keeping what he is able. When by some social arrangement, regulation, or law, the terms are laid down under which one may acquire and keep or enjoy a portion of the thing in question, and these terms are enforced by some kind of governmental or social compulsion, then there is property. Otherwise there is not.

Two facts are important: (1) nothing is made the object of a property right unless it is scarce and needs, therefore, to be economized; (2) mere possession of a thing does not constitute property in it. There must be some kind of a social recognition of the right to

possess and use it, and some kind of public defense of that right. The sole legitimate purpose of such laws is to conserve and economize scarce goods and see that they go to the persons who ought to have them rather than merely to the strongest. Two basic rules are generally admitted: (1) he who finds or first appropriates a natural object shall possess it and be defended in his possession; (2) he who makes a useful thing out of it shall possess it and be defended in his possession. The right of possession usually carries with it the right of transfer, and this, in turn, the right to acquire by transfer from another. Then follow endless modifications and refinements.

See COST; PRICE; VALUE.

References: T. Hobbes, *The Leviathan* (1845); J. Locke, *Treatise on Civil Government* (1884); J. Bentham, *Principles of Morals and Legislation* (1879); G. D. Argyll, *The Unseen Foundations of Society*, an examination of the fallacies and failures of economic science, due to neglected elements (1893); T. N. Carver, "The Economic Basis of the Problem of Evil" in *Harvard Theological Review*, I, 1. T. N. C.

PROPORTIONAL REPRESENTATION. Its Principles.—Proportional representation in legislative bodies is obtained in theoretical perfection when each political party or group is represented by a number of delegates in exact proportion to the number of votes cast for each group. In common practice it is not covered by the term "minority representation" (*see*) for the latter usually provides merely for some sort of recognition of the chief minority group without regard to the proportion of its voting population. To obtain the correct proportion various systems of voting have from time to time been brought forward. The first to attract general public attention was that of Thomas Hare, whose treatise appeared in England in 1859. Hare's ideas were given extensive publicity through the writings and parliamentary activity of John Stuart Mill, and since that time various modifications of the plan have been proposed and in certain instances adopted. These variations differ chiefly in the devices used for obtaining approximate mathematical exactitude in the employment of all votes cast. Under plain majority rule a minority which is but one less than the prevailing party may go for years without a delegate in the legislature. The nearest approach to a remedy under that system is to divide the country into districts exactly equal in population with one representative from each, but even here one party may get all of the representatives, and usually does obtain delegates greatly out of proportion to its voters. The ideal basis upon which to determine public opinion would be the whole country acting as a single voting district, but practically this is unwieldy, hence all systems

of proportional representation make use of the next best thing, which is a large district from which several delegates, preferably upwards of five, are elected at the same time. From such a group of candidates it is possible either for the voters by one system to select by preference, or by another to have their votes take effect for their group in proportion to their strength. In either case the next step is to establish the quota, or number of votes necessary to elect one delegate. If there are ten places to fill each candidate requires one-tenth of the votes cast, hence under all systems the simple quota is obtained by dividing the votes cast by the number of representatives. As in practice there frequently occurs after division a large remainder, sometimes almost equal to a quota for one delegate, it has been found more nearly correct to divide by the number of delegates plus one. This is called from the author the Droop quota.

Hare System.—Under the Hare system the citizen is given but a single vote, but he may indicate his preference among the candidates by numbering them all as first choice, second choice, and so on to the end. The quota is ascertained and then in counting the votes a candidate of the first choice is given just enough of his votes to fill his quota, the remainder being passed on to candidates not yet elected, in the order of the expressed preferences. If any candidate is elected by his own votes as second choice, the surplus votes are all given to a third choice, and so on until the full list of seats is filled. Theoretically this allows the fewest possible votes to go to waste. In practice the system is difficult to apply to large districts because the ballot boxes must all be brought to a central bureau to be counted. There is also a considerable amount of chance in the order in which the ballots are counted, although various devices have been suggested to insure accuracy. This single transferable vote with modifications of the Hare system is in use in Denmark, Iceland, Moravia, and Tasmania.

List System.—The list system recognizes not only the individual voter, but also gives opportunity for the expression of party or group opinion. Parties may nominate tickets containing as many names as there are places to fill. The citizen has as many votes as there are delegates to elect and may scatter them among candidates of different parties if he wishes. In a constituency of 60,000 voters with ten delegates to be elected from three competing parties we may suppose the vote to have fallen out as follows: Liberals 30,000, Conservatives 18,000, Socialists 12,000. The electoral quotient found by dividing the total vote by 10 is 6000. This would give the Liberals 5 delegates, the Conservatives 3, and the Socialists 2. Under the ordinary form of majority rule the Liberals having the highest number of votes, although they form but half

of the electorate, would have obtained all of the delegates. Elections, however, do not fall out in such convenient round numbers, hence there are various plans for justly computing the value of remainders and for giving credit both to the voice of party and to the personal choice. In eight of the cantons of Switzerland proportional representation obtains either with the simple quota or the quota plus one. In Belgium and a few other states a system of computation is used which was first proposed by Victor D'Hondt. The vote of each party is divided first by one, then by two, three, four, etc., up to the number of delegates. The quotients are arranged in order of size and the largest after the last division becomes the electoral quotient below which no one can be elected. Using the example given above the result is the same, but where the votes cast are more irregularly divided the system reaches approximate justice without arbitrary use of remainders to fill out the proper number of delegates. The chief objection is the difficulty of making clear to the ordinary voter the mathematical reason for this procedure. The simple quota is plainly the share of each man and the party gets as many delegates as it has shares.

Variations.—Among the variations which may be mentioned the Hagenbach-Bischof system simplifies the D'Hondt calculation by first using the simple quota plus one, then assigning unfilled seats according to percentages of party vote as before. The Gove system is an adaptation of the Hare preferential vote but the order of preference is fixed by the candidate by public announcement in advance. The voter needs to mark only the name of the candidate whose preferential list he approves. The Cleveland plan is also a preferential system under which the first choice is given additional weight of numbers. If ten names are voted the first choice is given ten tallies and the tenth choice one. The tallies for each candidate are added and the ten highest are elected.

See MINORITY REPRESENTATION; PARTY, PLACE AND SIGNIFICANCE OF.

References: J. R. Commons, *Proportional Representation* (1907); J. H. Humphries, *Proportional Representation* (1911); Library of Congress, *A List of Books with References to Proportional Representation* (1904); R. E. Curtis, "Proportional Representation" in Wisconsin Library Commission, *Comparative Legislation Bulletin*, No. 14 (1908).

J. M. VINCENT.

PROPRIETARY VILLAGES. In the mining regions of the far western states, mining corporations in many cases own all the land in mining villages, and through this ownership control many matters often regulated by public officials. In such towns, sanitary conditions are apt to be better than usual in

frontier communities; and by excluding saloons and gambling places from the company's property, the moral conditions are much improved. The companies often furnish water and light, and sometimes schools, churches and other social institutions for the benefit of their employees. Resident officials of the companies take an active part in school management. See TOWNS AND TOWNSHIPS; VILLAGES INCORPORATED. Reference: F. A. Fairlie, *Local Gov. in Counties, Towns and Villages* (1906), 211.
J. A. F.

PROROGATION OF PARLIAMENT. See PARLIAMENT, PROROGATION AND DISSOLUTION OF.

PROSECUTING ATTORNEY. See ATTORNEY GENERAL, STATE.

PROSLAVERY. The term proslavery, apparently first applied by the opponents of slavery, was accepted by the friends of the institution. It included many shades of opinion with regard to the institution, from the planter who hated the system but saw no way of getting rid of it, to the most ardent fire-eater who wanted to extend the system as far as possible. The proslavery men had all the advantage of a long existing system, which had in it an element of the care of the strong for the weak, and seemed embedded in the social existence of the South. Much was made in proslavery publications of the mild and kindly side of slavery.

The proslavery argument took on several additional phases which were very prejudicial to the continuance of slavery. One was the theory that slavery, which in a late period was hailed as the corner stone of the South, could not publicly be criticised; that it was a public danger to debate it in Congress; and that the northern states, in comity if not in law, ought to prohibit the discussions of the abolitionists there. If it were true that slavery could not bear discussion, then its end was not far off. Nobody used the obvious argument of inducing known abolitionists to go down to the South and see the institution at short range, expecting that any intelligent man who examined slavery *must* approve it.

During the period previous to 1830, southern writers on the subject were chiefly hostile to slavery; but when the southern agitation died out, and the northern abolitionists (*see*) began a literary and journalistic campaign against slavery, the friends of the slave system replied in a literature of defensive argument, enlarged by many public addresses on the subject. Thus in 1856, Robert Tombs of Georgia, lectured in Boston in favor of slavery.

The propaganda was much aided by these arguments from those who best knew the actual conditions of slavery, although the most

important defensive works appeared very late in the controversy. Both in books and in speeches, there was a tendency to ignore the difficulties of the argument, and to insist that slavery was in its details almost universally humane and easy. From the argument that slavery was unassailable, it was a short step to the argument that it was a positive good which ought to be extended, including (in some books) a demand for a restoration of the slave trade.

Proslavery was for thirty years on the defensive, but as a propaganda was weakened by abuses of slavery that could have been spared without yielding the main issue of keeping up the institution.

See SLAVERY AS AN ECONOMIC SYSTEM; SLAVERY CONTROVERSY.

References: A. B. Hart, *Slavery and Abolition* (1906), ch. x; J. H. Hopkins, *Scriptural, Ecclesiastical and Historical View of Slavery* (1864), *The Proslavery Argument* (1852); H. A. Hilary, *Abolition Crusade and its Consequences* (1912); E. A. Pollard, *Black Diamonds* (1859); S. D. Smedes, *Memorials of a Southern Planter* (1887); bibliography in Channing, Hart and Turner, *Guide to Am. Hist.* (1913), §§ 209–212. A. B. H.

PROTECTION. See FREE TRADE AND PROTECTION; TARIFF, PROTECTIVE.

PROTECTION TO AMERICAN CITIZENS ABROAD. **Basis of the Right.**—The basis of the right to protect citizens or nationals abroad lies in a state's primary right of self-preservation. The right of a state to protect its nationals abroad extends to the protection of property as well as of person. Coincident with the duty of allegiance by the national is the duty of the state to protect him wherever he may be.

When a state admits a national of another state within its territory it assumes a duty in international law to the state to which such individual owes allegiance. This duty is to extend to such individual a *régime* of law, and to protect him and his property under such *régime* against all denials of justice. These comprise not only the oppressive, wilful, and fraudulent proceedings of courts, but all acts of governmental authorities which arbitrarily interfere with the alien or deprive him of life, liberty, and property without due process of law, using these words in the broadest sense.

Such being the duty of one state to the nationals of another within it, the second has the right to demand of the first that it perform its duty. The duty is owed by state to state. The state to whom the duty is owed is the subject of the right; while the individual is the object of the right and duty.

Those Entitled to Protection.—A state has the right to protect all who owe it allegiance when beyond its borders. The conditions which

govern the duty to protect such nationals depend upon a state's treaty arrangements, its municipal law, and its policy, when not in conflict with international law. All whose allegiance it recognizes are entitled in some circumstances to the protection of the United States, whether citizens, in the constitutional sense, or nationals, not being citizens, such as Indians in tribal relations and the inhabitants of the dependencies. The degree of protection afforded depends not upon status under the Constitution but upon the tie of allegiance. The United States also extends protection to quasi-nationals, those resident aliens who have begun but not completed the process of naturalization. Such protection is strictly limited by the act of Congress passed in 1907. On the other hand the United States has disclaimed any duty of protecting nationals who have acquired a foreign domicile. The earlier doctrine was that foreign domicile worked a *de facto* expatriation and a loss of right to protection. The later doctrine is that change of domicile does not work change of nationality and that the duty of protection persists. Under the act of 1907 it would seem that nationality under the United States is dissolved only by the positive breaking of the tie of allegiance through naturalization into another state.

Right to Protection against Individuals.—As it is the act or omission of the state which produces denial of justice, the right which the United States claims of protecting its nationals abroad, is directed against an offending state and not against the individual. If an American national abroad is injured by breach of contract or tort by a national of such foreign state, he must ordinarily seek redress in the courts of such country. The United States will intervene only if the court has denied justice by failing to act or by acting in bad faith.

Right to Protection against States.—(1) When an American national engages in rebellion or revolution against a foreign state he will generally be held to have forfeited his right to protection, especially if he be domiciled in such foreign state. The United States has, however, intervened to secure to such national the rights afforded by the laws of war. (2) In time of war, while the United States does not usually intervene to protect its nationals from acts arising from the operations of war, it is justified in securing for them compensation for property taken for belligerent use or when damage has been caused by violation of the recognized rules of warfare. (3) The United States has been conservative as to the protection of its nationals against breaches of contract entered into by them with foreign states. At one time its policy was to use its good offices only. The later policy has been to intervene more actively by requesting arbitration etc., when a foreign state has declared such

contract forfeited for causes arising outside the contract itself. Even when the national has waived recourse to diplomatic action by the terms of the contract, the United States has not held itself inhibited from exercising its right of protection. Under Convention II of the Hague Conference of 1907, ratified by this government, the United States has bound itself not to use force for the recovery of such contractual claims unless arbitration has been refused or abandoned by the offending state.

Acts Arising out of Torts.—These are described as denials of justice in the broadest sense. The policy of the United States has been to assert the right of protection over its nationals abroad when they are injured or threatened with injury as to person or property; either positively, by the oppressive or arbitrary acts of state authorities, or negatively by the failure of the government of the foreign state, *as, e. g.*, when an American is subjected to mob violence because of his nationality.

See ALIEN; CLAIMS, INTERNATIONAL; DRAGO DOCTRINE; EXPATRIATION; EXTRADITION; HAGUE CONFERENCES; INTERNATIONAL LAW, PRIVATE; KOZTA INCIDENT; WAR, INTERNATIONAL RELATIONS OF.

References: Am. Soc. of Int. Law, *Proceedings*, 1910, 46-122, 126-192; "Citizenship of the U. S., Expatriation, and Protection Abroad" in *House Docs.*, 59 Cong., 2 Sess., No. 326 (1906); J. B. Moore, *Digest of Int. Law* (1906), VI, 605-1037; Elihu Root, "Basis of Protection to Citizens Residing Abroad" in *Am. Jour. Int. Law*, IV (1910), 517-528.

J. S. REEVES.

PROTECTIVE TARIFF. See TARIFF, PROTECTIVE.

PROTECTORATES. See DEPENDENT STATES.

PROTECTORATES. **International.**—This word, as originally used, denoted a legal relationship which arose, usually by treaty arrangement, between two states, one of which took another under its protection. Such, *e. g.*, is the relationship between Italy and the republic of San Marino. The term was next used to describe the relationship between a state and the territories of a country which, although not a state in the strict international sense, remained independent, *e. g.*, the protectorates of France over Tunis, of Great Britain over Zanzibar, and of Japan over Korea. The colonial protectorate is the latest form, and is usually a temporary expedient, being a step toward the complete incorporation of the protected territory as a colonial possession. Protectorates of this type have played a large part in the partition of Africa among the European powers. They are assumed either as a result of so-called treaties between the agents of the

European powers and the native chiefs, or of occupation without such treaties. In order to fix a state's responsibility for such actions, the General Act of the Berlin Conference in 1885 stipulated that the assumption of a protectorate by a European state must at once be notified to the other signatories of the General Act. A state in creating such a condition usually discloses the intention of exercising sovereignty over the territories concerned and thereby assumes some responsibility for administration. Most colonial protectorates in Africa have become typical colonies upon the organization of governmental administration. See CANAL ZONE; CUBA AND CUBAN DIPLOMACY; HAWAII; HAITI; LIBERIA; MEXICO; PANAMA, REPUBLIC OF; SAMOA; SAN DOMINGO; TERRITORY, CONSTITUTIONAL QUESTIONS OF; WEST INDIES. **References:** J. Westlake, *Chapters on the Principles of Int. Law* (1894), 177-178, *International Law* (1906), I, 119-127; E. Nys, *Le Droit International* (1904), I, 364-6; T. J. Lawrence, *Principles of Int. Law* (4th ed., 1910), 168-173; W. E. Hall, *Foreign Powers and Jurisdiction of the British Crown* (4th ed., 1895), 207-220; E. Engelhardt, *Les Protectorats Anciens et Modernes* (1896).

J. S. R.

PROTECTORATES, AMERICAN. A protectorate is a state whose complete independence is definitely limited by the control of another; the term also designates the relation thus established. In this exact sense the United States has certain protectorates, and to other countries holds a protective attitude.

Cuba.—Cuba (*see*) is an undoubted protectorate. The United States administered it from 1898 to 1902; then acknowledged its independence, subject to control in certain particulars which were specified in the Cuban constitution and subsequently in a treaty, May 22, 1903. Later, when a revolution seemed impending, the United States again established a provisional government, which continued from 1906 to 1909, and threatened to intervene once more in 1912.

Panama.—The protectorate over Panama (*see*) is technically based upon the first article of the treaty of May 18, 1903: "The United States guarantees and will maintain the independence of the Republic of Panama." May, 1908, the Secretary of War made a special trip to the country to prevent a threatened revolution. This is an extension of a guaranty made by the treaty with Colombia in 1846, by which the isthmus transit was placed under the protection of the United States. The Clayton-Bulwer treaty of 1850 (*see*) substantially asserted a joint British-American protectorate over any isthmus canal, but was abrogated in 1902.

Samoa.—The Samoan islands were under the joint protectorate of Great Britain, Germany and the United States, in accordance with

the provisions of the General Act of Berlin in 1889, till the subdivision by a joint treaty in 1899.

Liberia.—Liberia (*see*) was founded jointly by American colonization societies and the United States Government, in the twenties, and has frequently sought counsel and aid from the United States. Responding to its urgent appeal the government sent a commission of investigation to Liberia in 1909, and has since assisted it in its administration and its foreign affairs.

Hawaii.—Hawaii (*see*) was under American protective influence from about 1842 until 1898. Webster promised in 1851 that the navy would safeguard the independence of the islands. By the treaty of 1875, Hawaii conceded important privileges definitely denied to all other states.

Texas.—Texas (*see*) was a virtual protectorate from 1836 to 1845, during the continuous agitation for its annexation.

Mexico.—Mexico may be considered a commercial protectorate, due to the great influence of American capital there invested.

San Domingo.—San Domingo is, in reality, a financial protectorate. According to the treaty of 1907, the United States supervises its customs and controls its debt. Similar relations will probably be established with the Central American republics and Hayti, though treaties with Honduras and Nicaragua to that effect in 1912 were not ratified.

Nicaragua.—In July, 1913, a treaty was negotiated with Nicaragua which, if ratified, will make Nicaragua a definite protectorate of the United States, under substantially the same limitations as those which have been placed upon Cuba.

See CUBA AND CUBAN DIPLOMACY; DEPENDENCIES OF THE UNITED STATES; HAYTI; LIBERIA; MEXICO; PHILIPPINE ANNEXATION; SAMOA; WEST INDIES.

References: A. B. Hart, *Actual Government* (1908), 373-376; J. B. Moore, *Digest of Int. Law* (1906), I, 475-520, 545-554, III, 46-55, 130-136, V, 762-768; J. H. Latané, *Am. as a World Power* (1907), 179-181, 220, 279-282.

GEORGE H. BLAKESLEE.

PROTHONOTARY. The clerk of the court of common pleas in Pennsylvania and Delaware. See COURT OF COMMON PLEAS; COURT OF PROBATE; STATE JUDICIARY. J. A. F.

PROTOCOL. The term "protocol" as a term in international law has several distinct meanings, the two most important being: (1) as descriptive of the papers and records of the meetings preliminary to and attending the negotiation of international agreements; (2) as the name of a written international agreement itself which states definitely the points of agreement between the contracting powers upon which it is proposed to base a final and

complete treaty. The agreement signed by the Allies at Peking in 1901, after the Boxer troubles (*see*), though termed a protocol, was, in some respects, more of the nature of a military convention. Some of its provisions were, indeed, of a character that would, under usual circumstances, find embodiment in a final treaty. See DIPLOMACY AND DIPLOMATIC USAGE; DIPLOMATIC CORRESPONDENCE; NEGOTIATION OF TREATIES BY THE UNITED STATES. **References:** J. B. Moore, *Digest of Int. Law* (1906); J. W. Foster, *Practice of Diplomacy* (1910). W. W. WILLOUGHBY.

PROVIDENCE PLANTATIONS. See RHODE ISLAND.

PROVINCE, ROYAL, IN AMERICA. Although the royal province, from economic causes, came later into the field than the proprietary colony, it represented, throughout, the type at which English colonization aimed. From an imperial standpoint the benefits conferred by colonies could not be secured except by means of an executive in close touch with the home government; and it was the presence of such an executive that differentiated the royal from the other types of colony. Although, in fact, the presence of a nominated council and the recognition of the Crown's ownership of the public lands encouraged aristocratic tendencies, the system was compatible with democracy, its one essential being that the governor should be directly responsible to the Crown, forming part of the English governmental machinery. It was a pale imitation of the English constitution, the governor representing the Crown, the legislative council the House of Lords, and the assembly the House of Commons; but the governor was not even a viceroy; the council was small in numbers and without the prestige or influence of a hereditary aristocracy; while the question how far the representative assembly partook of the nature of a parliament or how far it was merely a municipal institution never received a final answer during the colonial period.

Lack of Elasticity.—Moreover, the system showed no capacity of adaptation to circumstances, through the development, as the work of the governor increased, of separate heads of departments, out of the material provided by the executive council. Without individual responsibility, and consisting of members appointed in England, who might not be in sympathy with the governor's policy, the council was either a mere echo of his voice; or else, in a few cases, a centre of factions, because irresponsible, opposition. The rule that made the second branch of the legislature the confidential advisers of the governor, led, in Massachusetts, to the paradox that a popularly elected legislative council, consisting of twenty-eight members, might be consulted as to the legality of legislation passed by itself.

Lack of Effectiveness.—The antinomy caused by a governor possessing, in theory, complete executive power, and an assembly, able, through the power of the purse, to bring pressure upon him, was common to both the royal and proprietary colonies, but the greater prestige of the governor in the royal province, as the direct servant of the Crown, made his failures the more conspicuous. The reason for such failures lay, not merely in the coercive character of a refusal to vote supplies, but also in the fact that the system, by making him responsible for every department of government (the customs and admiralty officials need not for this purpose be considered), demanded the impossible; thus creating neglected fields of government, into which the committees of the assembly entered without effective resistance. Accordingly, after the removal of the royal governor at the time of the Revolution, public affairs went on much as before.

Progress of Movement towards Single Type.—Throughout the colonial period, Virginia was the typical royal province. One main cause of controversy which elsewhere arose was here removed, through the assembly having voted to the governor a permanent salary; in return for which an absentee governor in England took the money, doing his work by deputy. New York became a royal province on James II's accession in 1685; New Jersey by surrender of the proprietors in 1702; and in like manner South and North Carolina in 1719 and 1722. New Hampshire became a separate royal province in 1691, and the corporate colony of Massachusetts at the same time underwent the same fate, so far as it was brought about by the engrafting of a governor, appointed by the Crown, upon a vigorously independent self-governing community. The compromise under which the main privileges of the original charter were restored, in return for the peaceable acceptance of a royal governor seemed a step forward in the consolidation of the empire for military and trade purposes. It is true that the governor proved impotent to enforce the trade laws, in the face of a public opinion wholly hostile, but the part played by Massachusetts in the resistance to France from 1745 to 1763, was rendered more effective by being in touch, through its governor, with the British government.

Later Development.—The colonies which were won from the French—Nova Scotia and Canada—naturally became royal provinces; representative institutions being withheld at first. With their introduction the evils of the old system of government again became apparent, and it was not till the triumph of responsible government (*cire*, 1848), under which the government lay with a ministry possessing the confidence of a majority of the legislature, that a solution was found for the problem.

The modern British colonial system is to con-

fer full responsible government, representative government and crown colony government, according to the character of the population; whereas in the seventeenth and eighteenth centuries the same form of royal province was considered appropriate wherever there were English inhabitants. Consequently the expression "crown colony," in the *Rules and Regulations* of the Colonial Office, meaning a colony in which the Crown has the entire control of legislation, while the administration is carried on by public officers, under the control of the home government, has no connection with the royal province of the seventeenth and eighteenth centuries.

See COLONIZATION BY GREAT BRITAIN IN AMERICA; COLONIAL GOVERNMENT, PROPRIETARY.

References: Sources for the working of the royal provinces in "Official Letters of Alexander Spotswood" in Virginia Historical Society *Collections*, I-II (1854-1860); "The Official Records of R. Dinwiddie" in *ibid.* III, IV; E. B. O'Callaghan, *Documents Relating to the Colonial Hist. of New York* (1853-1861); W. A. Whitehead, *Documents Relating to the Colonial Hist. of New Jersey* (1880-1904); Thos. Hutchinson, *Hist. of the Province of Massachusetts Bay, 1691-1750* (2d ed., 1768); E. B. Greene, *Provincial Governor in the English Colonies of North America* (1898), H. L. Osgood, *English Colonies in the Seventeenth Century* (1907), III; P. A. Bruce, *Institutional Hist. of Va. in Seventeenth Century* (1910); O. M. Dickerson, *Am. Col. Government, 1696-1765* (1912); the chief authority for the necessity of responsible government is Lord Durham, *Report on the Affairs of British North America* (C. P. Lucas, Ed., 1912); J. Howe, *Speeches and Public Letters* (1858); for the present British colonial system, A. B. Keith, *Responsible Government in the Dominions* (1912); H. Jenkyns, *British Rule and Jurisdiction Beyond the Seas* (1902); Colonial Office List (annual).

H. E. EGERTON.

PROXY. A written authority given by one person to another to act in his stead in a meeting of which the giver of the proxy is a member, or which he has the right to attend. Proxies are much used in the proceedings of corporations, which are commonly attended by only a few persons, particularly if a stock vote is called for. Proxies are also sometimes given to members of fraternal or other conventions. From the governmental standpoint they are especially important because used in political committees, which are often so large that it is difficult to get adequate representation. Hence, a member who cannot be present authorizes a friend, presumably of the same political faith, to act for him. Proxies are allowed in national party committees, and in many less important meetings. They are often sought in advance so as to assure a majority to a particular combination of men. No proxies are

ever allowed for members of public legislative bodies, city councils, legislatures, or Congress. They are sometimes used in local and state conventions but not in national conventions

where their place is taken by the system of alternates. See ALTERNATES; COMMITTEE SYSTEM IN UNITED STATES; COMMITTEES, PARTY. A. B. H.

PSYCHOLOGY OF THE CROWD

Crowd Personality.—Every crowd has a personality of its own. Only in rare instances does this personality reflect a mere average, or a mere blend, of the mental traits of the persons who compose it. The mind of the crowd is unique and in many particulars unlike the minds of its constituent members.

Variations.—There is naturally wide variation in the peculiarities of crowds, depending in part upon the character of the people forming them, in part upon the conditions under which they are brought together. A crowd of politicians assembled to nominate a ticket presents features differing markedly from those of a religious assembly gathered for worship, and each is quite remote in its attributes from the traits of a mob bent on murder. Nevertheless all crowds present certain common characteristics, in so far as they fall under any single dominating mental influence. A mass of persons passing to and fro in the street is not psychologically speaking a crowd. The same mass of persons arrested to watch a conflagration, and much more when gathered to hear a speaker, is a crowd in the sense here contemplated.

Crowd Intelligence.—The conditions under which crowds gather are commonly unfavorable to reflective and critical thinking. Hence it comes about that the level of intelligence to which successful appeal can be made is generally low. Political speakers often take advantage of this fact to employ analogies by way of argument such as would never for a moment stand the scrutiny of a calmer moment. Moreover, a speaker who wanders long from the obvious and the concrete, pays the penalty by loss of attention, which is merely loss of contact with his hearers' minds. In comparison with the normal individual consciousness, the mind of the crowd is fragmentary, discontinuous and especially susceptible to suggestions. It forgets the most evident facts, it leaps to conclusions over chasms of limitless depths, it follows with unbridled enthusiasm the leader who once holds it in his grip with little regard to rational continuity of thought.

Loss of Personal Responsibility.—In crowds moved to excitement there is a curious and well recognized diminishment or loss of the sense of personal responsibility. The individual's own personality shrinks and is enfolded within the mass of the mob. This is no doubt in part an immediate result of the sheer awe-

someness of the multitude. Where a clever speaker has been haranguing the crowd, a condition analogous to hypnosis supervenes. The mind is kept riveted upon one line of thought until opposing ideas have become few and feeble, and one is forthwith ready to act. In mobs which are being incited to violence, any overt move on the part of a leader, when passion has been thus deeply stirred, may suffice to precipitate united action, action of which no one of the participants could possibly be guilty when alone. Nor must one suppose that such unreflective and impulsive conduct is evoked only in response to unworthy appeals and in the interests of criminal violence. A similar reaction may be elicited by an appeal to protect the flag, to succor the oppressed, to rescue the Holy City. Every race and every generation furnish abundant witness to the variety of ways in which the mob spirit finds expression.

Religious Revivals.—Few more typical examples of the psychology of the crowd are to be found than those afforded by revival services. This fact implies neither criticism nor approval of the institution. As conducted today we find a carefully executed preliminary campaign, in which by various devices public expectation and interest are aroused. At the service itself there is a skillful combination of emotionally stirring music with a persuasive address from the revivalist. Little by little, step by step, the listener is carried along until the hypnotic spell of the speaker, together with the concentrated thrust of the great sympathetic crowd, sweeps him wholly off his feet: he obeys the invitation to rise, or to come forward, or to do whatever else is called for, from those who wish to be saved. No sooner does one start than a dozen follow. All over the house people are weeping. The choir is chanting softly. The spell is irresistible. No doubt all forms of public worship contain a similar element of hypnotic influence. The revival service stands out conspicuously chiefly because of the violence of the reactions it invites. In the old "camp meeting" days these expressions often partook of the pathological and hysterical.

Group Psychology.—There is a group psychology closely related to the psychology of the crowd. Sects and castes often exercise upon one another influences which closely resemble those already described, and without essential regard to the physical presence to-

gether of the members of the group. Any opinion or belief held by a group is thereby likely to be more confidently cherished. We crave such support for both our convictions and our practices, and our loyalty to them bears a very direct relation to the attitude toward them of our set. To do as others do, to think as others think has, since the beginning of society, been the comfortable thing, the thing rewarded by neighborly confidence and approval. To dissent has always required high courage and something of the martyr's spirit. In primitive society the dissenter generally gets short shrift. Few of us have evolved so far as to have had this lesson of our ancestors bred wholly out of our bones.

Nowhere are these tendencies to yield to group pressure more obvious than in the realm of convention and fashion. To violate the established traditions of one's profession, to outrage the conventions of one's social peers, these are hardly more audacious enterprises than wholly to flout the demands of fashion. So well do we all know this, and so convinced are we of the inflexible irrationality of our contemporaries, that we gladly conform, allow our wives to wear each season the latest incongruity in dress and, yielding to an ancient human desire to avoid ridicule and an unflattering eminence, we do as we are bid by the tradesmen who fatten on our compliance.

Distinctions.—The psychology of the group

then is largely keyed to two notes, both more or less consciously recognized: (1) the desire for moral backing and sympathetic support in our beliefs and our practices; (2) a keen instinct to avoid the suspicion of being "queer," to escape the ignominy of ridicule. Both these motives lead us to cultivate our imitative capacities almost exclusively. Fortunately, most of us have too much independence of spirit to conform wholly. But few of us go so far as to isolate ourselves from the rank and file by an independence in which they could see only idiosyncrasy.

The psychology of the crowd on the other hand is almost wholly determined by subconscience, or at least by unrecognized, influences, by awe, by excitement, by semihypnotic suggestion and fascination and the like. Rational and well-considered motives are often mingled with these, but the typical "crowd" or "mob" consciousness is essentially emotional, suggestible, fragmentary and unreflective. It touches springs which lie far back in the dim twilight of the history of the race.

See MOBS; SOCIOLOGY.

References: G. Le Bon, *The Crowd* (1900); G. Tarde, *Les Lois de l'imitation* (1895), 265-394; E. A. Ross, *Social Psychology* (1909), 43-110, 346-55.

JAMES R. ANGELL.

PUBLIC ACCOUNT SYSTEM. See PRISON LABOR, PUBLIC ACCOUNT SYSTEM OF.

PUBLIC ACCOUNTS

Definition and Necessity.—Public accounts deal with the operations incident to the receipt and expenditure of public moneys. The subject naturally divides itself into two branches: (1) the system of accounting as a method of administration; (2) the accounts themselves which are available for public scrutiny and popular judgment. A division is also to be made between the accounts of the Federal Government and those of states and municipalities.

The Constitution of the United States demands that "a regular statement and account of the receipts and expenditures of all public money shall be published from time to time" (Art. I, Sec. ix, ¶ 7). There is also a provision that "no money shall be drawn from the treasury but in consequence of appropriations made by law." To carry out these provisions it is necessary that accounts shall be kept in an orderly manner which will admit of public presentation: and that a careful system of checks be adopted to prevent payments not authorized by Congress.

Legal Provision for Payments.—By the act of 1789, establishing the Treasury Depart-

ment, the system of accounting was placed in the hands of four officers: a comptroller, auditor, treasurer, and register. (1) The comptroller was to examine the propriety of the accounts, i. e., determine whether they had been authorized by law; (2) the auditor, to see that the accounts were presented in proper form; (3) the treasurer, to act as custodian of public funds and allow no money to pass from the safe-keeping save on proper warrants; (4) the register, to act as bookkeeper and keep a record of all vouchers.

In practical operation the system was as follows: to be sure that no money was paid out except under a congressional appropriation: (1) the executive, represented by an auditor and comptroller, scrutinizes and endorses the account; (2) a warrant must be signed by the secretary of the treasury; (3) countersigned by the comptroller; (4) recorded by the register; (5) then payment could be made by the treasurer. The system was admirable from the standpoint of safety, and for many years met the requirements of business convenience. Although it was the original intention that all accounts should be

"settled first and last" in the Treasury Department. changes on account of the increase of financial operations were introduced. Accountants or auditors were appointed in the Post Office, War and Navy Departments, in order to provide for a more accurate and expeditious settlement of accounts. Thus the accounts in these departments received a double audit, first in an executive department, and second, in the accounting offices of the Treasury Department. It was also found necessary to make another departure from the original uniform system in permitting agents, scattered throughout the country, to act as disbursing officers for certain appropriations. Under this practice certain claims may be paid before the account has been finally certified by an accounting officer.

Various changes took place in the development of the accounting system; new comptrollers and auditors were added as business increased and new governmental bureaus established. The system, however, became more and more complicated, resulting in friction between different officials and delays in settlement. Particularly was this so at the time of the Civil War, when the accounting officers were swamped with accounts and claims, many of which remained unsettled for years.

Example of the Routine in Passing upon an Account.—The following illustration may be cited from a description given by the court of claims in 1877. (1) An account in the War Department relating to clothing of the army is received and examined by the second auditor; when examined, the auditor certifies the balance and transmits the certificate and vouchers to the second comptroller. (2) The latter, after examination and comparison with the law making the appropriation, certifies the proper balance and returns to the auditor, (3) who transmits the certificate to the Secretary of War for a requisition. (4) The Secretary of War draws a requisition on the Secretary of the Treasury, requesting him to issue a warrant. (5) This requisition is then forwarded to the second comptroller, who countersigns it and once more sends it to the second auditor. (6) He records the requisition, certifies to it, and sends it to the Secretary of the Treasury. (7) A warrant is then drawn, addressed to the treasurer, (8) examined by one of the assistant secretaries, (9) signed by the Secretary or an assistant secretary, (10) sent to the first comptroller, who countersigns, (11) then to the register, and (12) finally to the treasurer, who may issue the draft. (13) The draft, however, must first go to the register for record and certification before delivery to the patient auditor.

Such a procedure naturally could not long be tolerated. It meant a triplicate system of examination, delays, and solidifying auditing officials into automata who were unable to exercise any real judgment which might se-

cure economy in the expenditure of public money.

Accounting Reforms.—In 1894 a reform was made as a result of an exhaustive investigation by the Dockery Commission. The new law (July 31, 1894) provided for one comptroller and six auditors. The administrative officers approve or disapprove claims and accounts and submit their evidence or comment for the information of the auditors. These latter then examine the account and certify their findings, which are final, subject to appeals to the comptroller, and to the power of the Secretary of the Treasury to direct a reexamination of the account. This reform lessens the number of accounting officers, placing greater responsibility upon the auditors, who are held responsible for the settlement of accounts and advances of money to disbursing officers. The duty of the comptroller is confined more strictly to the construction of the statutes. Under this new procedure the register practically drops out of the accounting system, so far as taking any part in the accounting of receipts and expenditures is concerned.

It is believed by competent experts that still further reforms in the interest of economy and efficiency are needed in the auditing department. As the auditors are not in the classified civil service, appointments are frequently made for political reasons. It is also asserted that there should be greater centralization, placing all the auditors under the supervision of one auditor-in-chief.

The whole accounting system is antiquated. Not till under Secretary Cortelyou, was the system of double entry bookkeeping introduced into the federal service. Trial balances and proofs of accounts were apparently unknown; hence in 1911, a special commission was directed to examine the system and report.

Unadjusted Accounts.—Under the elaborate system of checks and balances which has been described, the public funds have been reasonably protected, and the intention of the law, in the main, has been carried out. So far as the law is impractical, the accounting branch of the government cannot be held responsible. The only serious loss on the books of the government has been the so called "State Deposit" of \$27,000,000, made with the states from the federal treasury under the act of June 23, 1836. This deposit, was generally regarded as a gift; but in order to remove all doubts, Congress, in 1910, authorized the accounting officers to place to the credit of the treasurer the amount of the public moneys deposited with the states. Some slight losses have been due to mismanagement in subtreasury offices from which the treasurer has also been relieved. In 1910 there was still outstanding against the office of the treasurer \$1,483,000, a sum accumulating over a long

period of years, reaching back in part to 1857, and for which the office will not probably be held liable either for fault or negligence. The larger part of the above sum is due to defalcations in subtreasuries and mint deposits. As illustrating the magnitude of bookkeeping operations of the government, the following statistics may be cited for 1911; appropriation accounts were opened during the year to the number of 6500; 8000 active accounts of collecting and disbursing officers were carried; and 124,695 receipt and pay warrants were issued during the year, aggregating about \$3,681,000,000.

Publication of Accounts.—Information in regard to public accounts of the Federal Government is to be sought in the annual reports of the Secretary of the Treasury, in bound form, commonly called the *Finance Report*. In the text is generally to be found a statement of receipts and disbursements, summarized for the current year, for receipts under 50 headings; and for disbursements under nearly 180 headings. In the statistical part will be found tables showing receipts and expenditures by years since the establishment of the government, under four general headings (see EXPENDITURES, FEDERAL; REVENUE, PUBLIC).

Formerly, the reports of the auditors and comptrollers, which contain additional data, were included in the *Finance Report*; but since 1899 they have been omitted and are issued as separate documents. The figures in these reports, however, are not conveniently classified. In the annual *Statistical Abstract*, receipts and expenditures are classified in greater detail than in the *Finance Report*. Receipts, for example, are shown under customs, for 87 headings; under internal revenue, for 8 headings; and under other items for nearly 40 headings. Disbursements are distributed under 90 headings.

Considering the variety and magnitude of the operations of government administration, there is much to be desired in the presentation of the public accounts. Improvement, however, is not likely to be made until steps are taken to secure the framing of an orderly budget (see BUDGETS, FEDERAL). Particularly to be desired is a classification of expenditures according to objects for which money is spent, rather than by departments. In 1911 President Taft appointed a Commission on Economy and Efficiency, which has endeavored to introduce some reform in this direction.

State and Local Accounts.—The accounting systems of many states and cities have been of a primitive character from the standpoint of public information; and in many instances the machinery for safeguarding funds has been inadequate. Within recent years there has been some improvement, particularly in the field of municipal accounting. As a rule there are two principal officers—the comptroller or

auditor and the treasurer. In small cities the town clerk or recorder performs the duties of a comptroller. In some municipalities the only books of account are those of the treasurer. The comptroller (in Boston, the auditor) passes on all bills, and after certification transmits them to the treasurer for payment.

In a few states and cities the comptroller has the power of inspection of work and supplies for which the bills are rendered, but as a rule he depends upon the endorsement of the department or bureau in which the expense was incurred. This is almost invariably true in the handling of bills submitted by school departments in cities. A more flagrant evil is the not uncommon practice in some cities of officials incurring bills in excess of appropriations, in the expectation that the city council will subsequently vote the deficiency. The tendency, however, is to increase the power of the comptroller or to require the previous consent of the mayor for expenditures not specifically authorized.

Uniformity of Accounts.—From the point of view of the taxpayer, a serious defect lies in the lack of uniformity of city accounts. The financial experience of one city cannot be compared with that of another. An attempt to remedy this defect has been made recently, by the Bureau of the Census which now publishes an annual volume on *Statistics of Cities Having a Population of over 30,000*. Reports are analyzed so as to show the cost of conducting the city's business, together with the revenue collected and the debt incurred. These reports also contain valuable discussions of accounting terminology.

Only with great difficulty has the Bureau been able to reduce the data into comparative tables. Financial terms, such as expenses, expenditures, revenues and income, are used with different meanings. Especially confusing is the use in some cities of "funds." Receipts are distributed into many so-called funds, or accounts, in accordance with the old English practice of voting supplies for a specific expenditure. The result is the keeping of a separate account for each fund. As Plehn remarks, "With the exception of a few trust funds, these funds are in effect mere book-keeping contrivances."

State Supervision.—Of interest also is the tendency for state governments to exercise some form of state supervision over the accounts of municipalities. Some 25 states now attempt this, either by requirement of accounts according to uniform schedules, by examination of accounts, or by simply receiving the reports for purposes of compilation. Influence toward an improvement of accounting is also being exercised by the National Municipal League and the National Association of Comptrollers and Accounting Officers.

See APPROPRIATIONS, AMERICAN SYSTEM OF; AUDITOR OF THE TREASURY; BUDGETS, FED-

ERAL; BUDGETS, STATE AND LOCAL; COMMISSIONS ON ADMINISTRATIVE METHODS; COMPTROLLER OF THE TREASURY; FISCAL YEAR; PURCHASE OF PUBLIC SUPPLIES AND PROPERTY; UNIFORMITY OF PUBLIC ACCOUNTS.

References: U. S. Treasury Dept., *Accounting System of the U. S. from 1789 to 1910* (1911); U. S. Census Bureau, *Statistics of Cities* (1908), *Wealth, Debt, and Taxation* (1907); Massachusetts Bureau of Statistics, *Statistics of Municipal Finance* (annual); National Municipal League, *Proceedings* (annual); *Am. Year Book*, 1911, 238, *ibid*, 1912, 201-203, and year by year.

DAVIS R. DEWEY.

PUBLIC ACCOUNTS, BOARDS OF. Several states, as for example, Texas, Colorado and Connecticut, have within a few years created boards of state accounting or accountancy: in some states simply to reform the bookkeeping of the state: in others to examine and certify public accountants. See BUDGETS, STATE AND LOCAL; EXPENDITURES, STATE AND LOCAL; PUBLIC ACCOUNTS; PUBLIC PROPERTY; REVENUE, PUBLIC, COLLECTION OF. **Reference:** N. Y. State Library, *Index of Legislation* (annual), title, *Accounts*. A. B. H.

PUBLIC ACCOUNTS, UNIFORMITY OF. See UNIFORMITY OF PUBLIC ACCOUNTS.

PUBLIC AID TO RAILROADS. See RAILROADS, PUBLIC AID TO.

PUBLIC BUILDINGS, FEDERAL, STATE AND MUNICIPAL. Colonial.—The English colonists of America brought with them a dignified tradition of the public buildings of the mother country including churches, castles, palaces, town halls, public markets, and other structures. The first buildings constructed at the public charge in the colonies were the churches, built in New England by the towns, in the South by the parishes; then followed townhouses, courthouses, and houses of assembly, of which several have lasted till the present day, among these the old statehouses of Boston and Providence.

The Continental Congress met in what came to be known as Independence Hall in Philadelphia and subsequently in several borrowed halls in other places. A building fitted up in New York in 1789 by subscription for the reception of the first Congress was known as Federal Hall.

Early National and State.—The United States, after it had selected the seat of government in 1790 (*see* CAPITOL OF THE UNITED STATES), proceeded to construct two buildings in Washington, which have had great influence on the architecture of the United States: the President's house, said to have been modeled from the palace of an Irish nobleman; and the Capitol, first sketched by Dr. Eustis, who was

not an architect, and subsequently worked out by Bullfinch. Outside of Washington, most of the new federal public buildings were of the Greek temple type, with a portico of heavy columns.

In the South there has been a strong influence from the Georgian brick architecture of the colonial period, and many modern county buildings are of that type. The capitol at Richmond resembles a temple, but many of the states have followed the type of the federal capitol, the splendid dome of which, completed about 1865 is one of the architectural triumphs of the world. It set an example followed by many of the states, which constructed for various purposes domed buildings of an inferior model.

The United States, from 1789 to 1861, built a number of custom-houses, usually including court chambers, most of them in the classical style; and after 1830 began the construction of elaborate post office buildings. Most of the states built their capitols a few years after their admission, and then put their constructive energy into their penitentiaries and insane hospitals, most of which were put up with little architectural skill or supervision by state authorities. As a consequence many of them have been destroyed by fire.

A second era of capitol building set in after the Civil War: elaborate new buildings have been constructed up to 1913 by Massachusetts, Rhode Island, Connecticut, New York, Pennsylvania, Texas, Minnesota and Wisconsin.

Early Municipal.—For many years the municipalities had few buildings except a city hall, of which a good type is in the lower end of New York. After 1830 the localities began to build city schoolhouses, mostly plain and incommensurate buildings. From 1850 onward they were busy with engine-houses for the public fire apparatus, with high schools and with enormous grade school buildings. The first public libraries of architectural pretensions date from after the Civil War, as do the municipal bathhouses, park pavilions, and pumping stations.

After 1865 the Federal Government put up in most of the large cities immense buildings of a different type, imitated from the French mansard: a style followed by the state and municipal buildings of that epoch, and exemplified by the Philadelphia City Hall. After 1880, principally under the influence of the great architect, Richardson, began a period of Romanesque buildings, with porticos, round arches, broad spaces, calculated balance of parts, and careful attention to the interior.

Methods of Building.—For this vast expenditure of public money, the governments of every type have had a poor and extravagant method. The Federal Government retains a public architect, but many federal buildings have been planned and at least in part executed by private architects. Since 1893 the

states of New York, Iowa, Illinois, Nebraska, and Kansas have provided for state architects, all of whom, except Nebraska, appear to be in service in 1913. As the architect's fee is a percentage of the cost of the building, this sometimes creates a profitable job; and architects are often selected by political influence. A dishonest or incompetent architect will allow disadvantageous contracts and jobbery. Many modern public buildings are built on plans chosen from a competition, the selection made by a group of disinterested professional architects.

The question of site is difficult to adjust. In New York the authorities were busy from 1910 to 1913 trying to make up their minds where to put a new court house. Many American public buildings are wedged into narrow spaces, instead of choosing a site fronting a park or the end of a street where the great building could be seen. A frequent method of adjusting this question is to create a commission of public officials, sometimes of private citizens, who have authority to make a selection.

The question of outlay for public buildings is closely allied to the whole question of the contract system of public works (*see*). The advantage of contracts is that the total cost of the building is supposed to be known in advance; and by competitive bids it is expected that the profit to the contractor will be brought down to a reasonable amount. These expectations often fail, for several reasons: (1) the contract may not include the whole building, which it is expected will be put up; (2) it may omit expensive items of interior finish; (3) it rarely includes furnishings and fittings, which may add one-half or more to the cost of the whole installation; (4) it may not include proper guarantees for the carrying out of the contract, exact sufficient bond, or contain an adequate penalty for delay. Contracts are further uncertain because changes are likely to be made during construction and little or no allowance can be secured for things that are left out, while extra construction has to be paid for on a non-competitive basis.

The supervision of public buildings is in general poor. The contractor may, as a matter of fact, be compelled by political influences to employ people who can give him no aid in the construction. Failure to make sure that the materials are of the quality specified are frequent. Federal structures are better looked after than others, but the neglect to hold contractors up to the requirements is a constant complaint in American public building.

Building on public account suffers also from delays, from fraudulent purchases of material and from subcontracts at high rates. Public buildings put up on this plan are sometimes years in construction; in the meantime there

may be a succession of architects and supervisors, and as in the case of the New York capitol at Albany, the plan of the building may be seriously changed after it is far advanced.

Scandals.—Some of the great public buildings have been the subject of serious scandals. The New York state capitol cost \$25,000,000 and though supposed to be fire proof was badly damaged by fire in 1911. The old state capitol of Pennsylvania at Harrisburg was mysteriously burned in 1897, and a new building was constructed by a commission of which the governor and the state treasurer were members. When the capitol was finished the commission boasted that it had been constructed within the appropriation of \$4,000,000. A new state treasurer, as soon as he came into office, in 1900, found evidence on the books of the state to show that this statement was not true, and that the building was enveloped in colossal frauds. The accounts when properly made up showed that the shell of the building had cost \$3,970,000; that the "decorations" had cost in addition \$7,721,000; besides \$881,000 for "furnishing"; that some of the marbles for which the state paid were nothing but painted stucco; that a million dollars had been paid for metal filing cases; that contracts had been made for artistic bronzes by the pound; that the building was crowded with bronze candelabra bought at outrageous figures. The total cost of the building when ready for occupancy was \$12,572,000 instead of the \$4,000,000 appropriated. The next governor instituted suits which resulted in the conviction of the former state treasurer, architect and several contractors, who all received state prison penalties.

Present Results.—Notwithstanding these difficulties the United States abounds in magnificent public buildings. Besides the superb federal Capitol, White House, and Library of Congress in Washington, there are beautiful state capitol buildings in Texas, Minnesota, Rhode Island, Wisconsin and Minnesota. The City Hall of Philadelphia is an enormous and very expensive building which, however, has a monumental character. Types of good smaller municipal buildings are the City Halls of Cambridge, Massachusetts and Des Moines, Iowa. In many communities the schoolhouses are the most imposing buildings. Many of the modern ones, particularly the high schools, show great architectural skill, as in Oklahoma City and Los Angeles. The most beautiful buildings recently put up at state expense are to be found in some of the universities and normal schools, as in the Universities of California and Illinois, and the Western Normal School of Macomb, Illinois. The public libraries are often very good. Boston and New York possess two of the most famous buildings in the country. The latter is almost the only public American building

which suggests the splendor of buildings of imperial Rome.

See BRIDGES, PUBLIC; CONTRACT SYSTEM OF PUBLIC WORKS; EXPOSITIONS, PUBLIC AID TO; MONUMENTS, PUBLIC; PUBLIC WORKS, NATIONAL, STATE AND MUNICIPAL; SCHOOL PROPERTY.

References: A. B. Hart, *Actual Government* (1908), §§ 150-152; Architect of the Capitol, "Annual Reports" to date in Sec. of War, *Annual Reports* (1862-1901); Superintendent, Capitol Buildings and Grounds, *Annual Reports* (1881 to date, not in Cong. Docs.); Supervising Architect, "Reports," 1862 to date, in Sec. of the Interior, *Annual Reports*; F. L. Lord, "Groupings of Public Buildings" in Municipal Art Society of Hartford, *Bulletin*, No. 2 (1904); G. Brown, "Hist. of U. S. Capitol" in *Senate Docs.*, 56 Cong., 1 Sess., No. 646 (1904), *Hist. Public Buildings under Control of the Treasury Department* (1901).

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PUBLIC DOMAIN. This term is generally applied to the lands owned by the United States and subject to disposition under the authority of the National Government. See PUBLIC LANDS AND PUBLIC LAND POLICY.

P. J. T.

PUBLIC HEALTH SERVICE. The only branch of the Government charged directly with the health of the nation is the Public Health Service, a bureau of the Treasury Department, formerly called the Public Health and Marine Hospital Service. This service has many public duties, such as the conduct of maritime quarantine, the collection of information of the occurrence and distribution of disease, the management and suppression of epidemics, the medical inspection of immigrants, the maintenance of a hygienic laboratory, the enforcement of interstate quarantine, the control of interstate traffic in serums, vaccines and other biological products, the conduct of marine hospitals for sick and disabled sailors of the merchant marine, the examination of pilots for color blindness, the conduct of a tuberculosis sanatorium, the maintenance of a leprosy investigating station in Honolulu, of a plague laboratory in California and other matters affecting the public health. The service is presided over by a surgeon general with a staff of assistant surgeons general entrusted with the management of its various division details.

This medical service, which is quasi-military in organization, dates from July 16, 1798, when Congress passed an act for sick and disabled seamen creating a fund designated the Marine Hospital Fund. In 1872 the "Marine Hospital Service" was reorganized and many additional duties were imposed upon it by Congress. In 1902 Congress changed its name to the "Public Health and Marine Hospital Service" at the same time further enlarging

its scope and powers. By an act approved Aug. 14, 1912, the name of the service was again changed to the Public Health Service; its powers were materially enlarged so that it now constitutes a public health service in both name and fact. The service publishes numerous reports, pamphlets and bulletins of general sanitary and scientific interest.

The Public Health Service numbers (1913) 143 commissioned medical officers, 221 acting assistant surgeons, and 48 pharmacists, in addition to other officers and employees. The commissioned medical officers are commissioned by the President by and with the consent of the Senate and are thereby assured a life tenure of office.

Among the fundamental duties imposed upon the federal Public Health Service is that of keeping constantly informed of the prevalence and geographic distribution of disease and of the sanitary conditions of localities. This information is published for the benefit of health authorities and those engaged in sanitary work in the Public Health Reports, a publication issued weekly in editions of 8,000 copies. In this same publication are printed currently the sanitary laws and regulations enacted and promulgated by states and cities.

The Surgeon General of the Public Health Service is required by law to hold at least one conference each year with the state health authorities for the discussion of current sanitary problems and to effect uniformity in public health administration and practice, in so far as practicable.

One of the important functions of a public health service consists in fostering scientific researches upon the problems with which it has to deal. For this purpose the government maintains in Washington a hygienic laboratory consisting of four divisions: viz., pathology and bacteriology, zoology, pharmacology and chemistry. It has a corps of forty to fifty research workers and during its short existence has solved important problems connected with the hookworm disease, typhoid fever, tuberculosis, yellow fever, plague, diphtheria, tetanus, new remedies, milk and its relation to the public health, etc. Researches have also been conducted in tropical diseases by commissions and special studies upon leprosy have been made with the result that the bacillus of leprosy has been isolated in pure culture, and further advances achieved that promise results in the prevention and cure of this loathsome disease.

See CONTAGIOUS DISEASES; HEALTH, PUBLIC; REGULATION OF; HOSPITALS, PUBLIC; QUARANTINE; TUBERCULOSIS, CARE AND REGULATION OF.

References: Public Health and Marine Hospital Service, *Annual Reports* (1872) *Hygienic Laboratory Bulletins*; *Public Health Reports*; *Am. Year Book*, 1912, 152, 715.

M. J. ROSENAU.

PUBLIC LANDS AND PUBLIC LAND POLICY

One of the most important factors in the building up of the United States as a nation has been the public domain and its disposition. The presence of great areas of unappropriated land, from the beginning of the history of the country to the present time, has affected the social and economic development of the people and profoundly influenced the political history as well. The history of the West has been largely written in terms of land, and the West (*see*) has been an ever shifting region. With a rich empire of agricultural lands at its disposal Congress has been able to encourage immigration, education, and internal improvements. Free lands and cheap lands have meant an independent body of home-makers. Democracy owes much, from every point of view, to the public lands and their wise disposition.

Colonial Lands.—Within the thirteen colonies lands were held, by the terms of their grants and charters, from the Crown in free and common socage. The Indians were considered to have merely an occupancy claim, which was, in most cases, extinguished by purchase, at first on the part of the settlers and later by or for the colony alone. Each colony disposed of its own lands. In the royal and proprietary (*see*) provinces, although grants were made to encourage settlement, still an effort was made to secure a small revenue from the land. And in every case the use of quitrents is found. These were small in amount but were universally detested by the grantees and were collected with difficulty. Not until the Revolution were they given up, in New York not till after 1840 (*see* ANTI-RENT RIOTS). In New England a different system was employed. The prominent feature was the town grant, made by the colony to settlers or proprietors and subdivided by them. The sale of land by the colony appeared only in the 18th century, and quitrents were rarely, if ever, used. Various social, economic, and climatic conditions caused the development of small holdings in New England and larger estates in the South. In New York, alone, were fully developed manors found. During the Revolution the states succeeded to the rights of the Crown or proprietors. There was, therefore, at the close of the Revolution no uniform land system, while in other portions of the present United States lands were granted under the French and Spanish systems.

Origin of the Public Domain.—At the close of the Revolution all lands within the United States were considered parts of the original states. Although this was questioned in respect to lands beyond the Appalachian mountains, the issue was never joined. The public

domain originated in the cessions (*see* CESSIONS BY STATES) by certain states of their claims to lands beyond the mountains. Some of these claims were of doubtful value, but controversy was eliminated by the acceptance of all the claims. The first cessions (*see*) between 1782 and 1787 served to unite the loosely confederated states; while in accepting them and providing for their disposition, Congress exceeded its small powers under the Articles of Confederation. Virginia inserted in her deed of cession that the lands should be considered "a common fund, for the use and benefit of such of the United States as have become or shall become members of the Confederation . . . according to their usual respective proportions in the general charge and expenditure, and shall be faithfully and bona fide disposed of for that purpose, and for no other use or purpose whatsoever." North Carolina and Georgia made almost similar conditions. This clause was frequently cited against special grants of public lands for private purposes; although the Constitution of 1789 provided that "the Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."

Growth of the Public Domain.—The following table gives the growth of the public domain in square miles:

State cession, 1782-1802 (nominally) -----	404,956
Louisiana purchase, 1803 -----	875,025
Florida, 1819 -----	70,107
Oregon, 1846 -----	288,689
Mexican cession, 1848 -----	523,802
Texas cession, 1850 -----	191,360
Gadsden purchase, 1853 -----	36,211
Alaska, 1867 -----	599,446

Various reservations and protected claims reduced the amount of public lands in the state cessions to approximately 340,227 square miles. In the various foreign cessions existing land titles or legal claims were protected. By 1904, 33,440,482 acres were thus confirmed, largely in New Mexico, California, and Louisiana.

Origin of the National Land System (1785-1800).—The first act for the disposal of the public domain was the Land Ordinance of 1785. Congress drew upon the experience of all the states and worked out a plan which was superior to any then in use, and which has, in its most important particular, come down to our time. The public lands were looked upon as a source of revenue, and the land ordinance was drawn with this in view. As the lands lay north of the Ohio it seemed that they would be most in demand by New England settlers, and the ordinance was framed

to meet their desires. It called for the survey of all land into townships, six miles square. Half of the townships were to be sold intact—the New England system. The rest might be sold in lots, one mile square. The minimum price was \$1.00 an acre in specie or certificates, plus the survey charges, sales to be at auction. One section of one square mile in every township was reserved for the support of education.

The most striking feature of this ordinance was that of rectangular prior surveys (*see* SURVEYS). It was the extension, over a great stretch of territory, of the system used in New England on a smaller scale. It would have been cheaper and more convenient to sell land warrants, subject to location by the purchasers, but this would have bred a host of conflicting boundaries and law suits. The township system of settlement did not prove adapted to the West, and so a regular development of the land system was the reduction in the size of the minimum lot. In 1800 some half-sections (320 acres) were offered; in 1804 a quarter-section was the minimum; in 1820, an eighty-acre tract; and in 1832, forty acres. Little land was sold under the Ordinance of 1785, because of Indian difficulties in the Northwest, but it introduced the system of rectangular surveys which has been of such great service in the orderly settlement of the public lands.

The first important sales were to companies. Several applications were made but only two sales were effected: to the Ohio Company (*see*) 1787, and to John Cleve Symmes (*see*) 1788. The former contracted for about 7,500,000 acres at two-thirds of a dollar an acre, but eventually secured about 1,000,000 acres, paying part in securities worth about twelve and a half cents to the dollar, part in military warrants, while 100,000 acres were donated by Congress. Symmes contracted for 1,000,000 acres, and paid for 250,000 in securities and warrants. These sales were desirable at a time when money was needed and settlers were wanted on the frontier. But this method of disposing of the public lands was not employed later.

Credit Sale Period (1800–1820). Before 1800 certain lines of development had been marked out. Bounties (*see*) for military service had been offered during the Revolution. These were employed, also, for the War of 1812 and the Mexican War, and in 1850 and 1855 even more liberal provisions for former service were made. Educational reserves were made in 1785 and in the sales to companies, but were omitted in 1796 and 1800, and only restored in the Ohio Enabling Act of 1802 (*see* EDUCATIONAL LAND GRANTS). Large grants for a university were made to the Ohio Company, and several years later to Symmes. Grants for religious purposes appeared only in the sales to companies. In the Northwest

the presence of land claims founded on grants of foreign powers led to troublesome problems of their confirmation, as new regions were acquired. The Indian occupancy and the foreign land claims, more than anything else, served to retard the regular extension of the land system. The minimum price per acre was increased to \$2.00 in 1796, with one year credit, and the surveys were to be paid for by the government.

In 1800 the act which determined the land system for twenty years was passed. This introduced an extended credit period; one-fourth must be paid within forty days of the sale, and five years credit was allowed on the balance with interest at six per cent. The auction system was retained. Under this law four land offices were established in Ohio. In spite of the high price for land the sales rapidly increased. The Indian title was gradually extinguished, the surveys were extended, new land offices were opened, and in 1815 the sales north of the Ohio reached 1,000,000 acres. A payment of \$128.00—one-fourth the minimum price plus fees,—gave a settler the use of a half-section for five years; the enthusiastic pioneers believed, often mistakenly, that at the end of the credit period they would be able to make final payment. As the sales increased the unpaid balances grew higher. After 1804 repeated efforts were made to reduce the price of the land and the size of the minimum tract, and to demand cash payments. By 1820 over \$24,000,000 was due the government, largely the result of speculation in Mississippi and Alabama. That year a general act abolished the credit system, reduced the price to \$1.25 an acre, and the minimum tract to eighty acres. The credit system was not bad in itself, but in its administration. The government could not enforce penalties for non-payment, so that recklessness was encouraged; and in the end the delinquents benefited, for between 1821 and 1832 eleven acts granted the debtors further credit, a discount for cash, or a relinquishment of part of their lands. In recent years the credit system has been used in certain special sales of reservation or irrigated land.

Cash Sale Period (1820–1841).—From 1820 to 1841 the public lands became more and more involved in the political struggles in Washington. With the admission of public-land states an increasing element in Congress insisted upon a sympathetic land policy. These men sought preemption and even donations for the settlers. They desired grants of land for the use of their states, and some sought a cession to the states of the lands within their limits. Measures for a general distribution of the public lands or their proceeds—for education; for internal improvements, or for general public purposes—were brought before Congress. At this time the western members stood together on public land questions, apparently

bartering for concessions with the North or South, with the high or low tariff advocates. In this period the granting of land for improvements within the public-land states began. The canal and wagon-road grants date from 1827, and river-improvement grants from the next year. The period closed with the passage of Clay's Distribution Bill in 1841, to which a general preëmption measure was added. The struggle for preëmption (*see*) had been in process for forty years. It was only won when the need of revenue was slight and the political power of the West was great. From this time the old auction system of disposing of public lands was of little importance, for most of the good land was taken up under preëmption.

Land Grant Period (1841-1862).—During the next twenty years Congress bestowed the public lands with lavish hand. New canal grants were made, the first state railway grant was authorized in 1850, and in 1849-50 the great swamp-land grants to the states were made (*see* LAND GRANTS). Between 1854 and 1862 the Graduation Act permitted the sale of land long on the market to actual settlers for from \$1.00 to twelve and a half cents an acre. From 1852 to 1862 a strong effort was made to write a homestead law (*see*) upon the statutes as the final act in the increasingly sympathetic treatment of the home-seeker. The issue became a political and a sectional one, demanded by the North and resisted by the South. A partial measure was vetoed by President Buchanan, in 1860; and two years later, in the midst of the Civil War, this important step was taken. To such an extent was the revenue side of the land policy subordinated to the encouragement of settlement, that the special needs of the treasury during the war could not impede this legislation. For fifty years the United States has been engaged in giving away homesteads to all qualified applicants therefor.

Period of Rapid Disposal (1862-1880).—The opening-up of the far West presented new conditions which were met, in part, by new laws. Prior to the Civil War the government had principally in mind the agricultural land, save the saline, lead, copper, and iron lands which were limited in amount. California suddenly presented the problem of mineral lands; the forests of the Pacific coast became valuable as population increased; and in the lands of little rain a distinction between agricultural and grazing land was necessary. The tree claim system (*see*) was carelessly drawn and incompletely administered. The railroad land grants (*see*), beginning in 1862, hastened the building of the transcontinental roads and the advance of population (*see* PACIFIC RAILROADS). These railroads were soon engaged in a great land-office business, disposing of their enormous grants. Land legislation has always loitered behind the needs of the hour.

Coal lands (*see*) were not subject to special terms of sale until 1864. The first mineral act (*see*), applicable to the gold fields, was not passed until 1866. The timber act (*see*) dates from 1878. No distinction was made between agricultural and grazing land, nor was provision made for leasing the latter; and as no man could afford to buy the necessary land, it became the custom for the first comers to take up small tracts controlling the water supply of great ranges.

The forty years from 1865 to 1905 mark the rapid disposal of the desirable public lands. The people of the public-land states and territories, especially, looked upon the lands as their peculiar heritage and the land laws as a means to that end. Public opinion generally seemed to sanction evasion of the law. When land was abundant no one cared how homesteads were taken or timber lands sold. The preëmption, homestead, timber, and timber-culture laws were constantly violated. The trouble was not so much with the laws as with their administration. And as long as public opinion was indifferent to a rigid enforcement of the law it was too much to expect the land officers to go behind the perjured oaths which were freely taken before them.

Proposed Reforms (1880-1909).—In 1879 a commission was appointed by Congress to examine and report on the land system. In carrying out its instructions the commission compiled all the land laws, temporary and in force, and Mr. Donaldson edited the *Public Domain*, which remains the most useful compilation of statistics regarding the public lands. The commission prepared a land bill which covered the public-land system and was proposed as a substitute for the existing sections of the Revised Statutes. It advised a classification of the lands into arable, irrigable, pasturage, timber and mineral; the repeal of the preëmption law; the disposal of arable lands in the West only under the homestead law; the reduction of the homestead period to three years and the withdrawal of the right of commutation; the sale of grazing lands at a low price; the sale of timber apart from the land; the location of square mining claims without the right to follow the lode; the abolition of the office of receiver. Congress, however, failed to act on this careful and searching report. Some of the urgent recommendations were enacted eleven years later, and others have been repeatedly laid before Congress to this day. It was the old difficulty. Western congressmen advocated a liberal land system and men from the East were too much interested in other questions to worry about the public domain.

During this period it was possible for a person to acquire legally 1,120 acres of arable land, under the homestead (160 acres), preëmption (160 acres), timber-culture (160

acres), and desert-land (640 acres), acts, as well as large quantities of coal, timber, and mineral lands. This was altered in 1890, by an act which made 320 acres the total amount which might be entered by an individual under all these laws.

In 1891 the first important act for the preservation of the remaining lands was passed. Up to this time, in general, the tendency of the land laws was toward the easy disposition of the lands; after this, a few conservative measures gradually find a place in the statutes. This act repealed the preëemption and timber culture laws; increased the residence period for commuted homesteads to fourteen months; abolished the public sale of land save in the case of special tracts (the private sale had been abolished in 1889); authorized the reservation of forest lands; and extended certain of the land laws to Alaska. Agricultural lands could now only be obtained under the homestead or desert-land laws, with the 320 acre total, but great quantities were still procurable from the railroads and the states, and by means of bounty warrants and various forms of scrip.

Conservation of Land (1901-1910).—The ten years from 1901 to 1911 mark the rise of the conservation movement. As the desirable lands rapidly decreased, their value rose. The demand for land called attention to the abuses under the existing system of disposition. Clear-visioned men aroused public opinion which responded to their appeals. The forest (*see*) reserve policy was generally endorsed, and the extension of the principle was urged in the case of coal and oil resources. The land laws were more vigorously enforced, and corruption in high places was unearched. Exploiters of the public lands soon realized the change. Homestead proofs were more carefully examined, desert-land claims were now inspected, timber and coal lands were appraised. Congress was asked for laws to meet the new conditions; and, pending legislation, great areas of coal and other lands were withdrawn from entry. In 1903 President Roosevelt appointed a Public Lands Commission which presented partial reports in 1904 and 1905, the appendix to which is a valuable extension of Donaldson's *Public Domain*. Once again the land laws and their administration were denounced as antiquated and ill adapted to the existing situation. The commission recommended a careful classification of the remaining land; the sale of timber and not of the land; the modification of the commutation clause of the homestead act to three years residence; the insistence upon residence and cultivation on desert-land claims; the regulation of grazing privileges; and legislation designed to prevent the acquisition of large estates. Four years later the National Conservation Commission reported, January 11, 1909, along very similar lines, and asserted that "the pres-

ent public land laws as a whole do not subserve the best interests of the nation."

Although no general revision of the land laws has resulted from these recommendations an indication of the future developments is found in the acts of 1910 which permitted the entry of the surface of coal lands (*see*) as agricultural lands with the reservation to the United States of the coal and the right to prospect for, mine, or remove the same, and which authorized the President temporarily to withdraw lands from entry for the purpose of classification or other public purposes. Inclusive of Alaska there remains 711,986,409 acres of unappropriated and unreserved public lands. Little of this is of present value, some will be reclaimed by the national and state irrigation projects (*see* IRRIGATION; RECLAMATION), some will be adapted to dry farming or timber culture, while a careful classification will doubtless show a wealth of coal and oil where little is now expected.

The Federal Government and the States.—The public lands have frequently involved the Federal Government and the new states in controversies; the states, in general, believing that their sovereignty was impaired by the large holdings of federal lands within their limits. In Ohio, the first state to be erected in the public domain, no question was raised as to the right of the Federal Government to continue its control of the public lands within the limits of the proposed state. Moreover the Ordinance of 1787 had bound the legislatures of the new states in the Northwest never to interfere with the primary disposal of the soil by Congress nor with any regulations which Congress might find necessary for securing the title in the soil to bona fide purchasers. No tax could be imposed on lands the property of the United States. However, under the system of credit then in vogue there was a question as to the right of the state to tax lands during the occupancy of the purchaser but before a patent had issued. To meet this difficulty Congress offered Ohio a grant of school lands, salt lands (*see* SALT LICKS) and five per cent of the net proceeds of lands sold within the state on condition that no tax be levied on public lands until five years after the date of sale. This form of compact was used for a number of years and seemed satisfactory, although some of the states raised the protest that they were losing more by the tax remission than they gained from the land grants.

Tennessee was the only state in the public lands to receive all the unappropriated lands within its limits. This was conceded by Congress because so generally had the lands there been taken up under North Carolina warrants that the extension of the federal land system over the scattered remainders would have occasioned too great an expense. In the twenties, however, it was occasionally urged that

the new states had a right to all the lands within their limits. This was maintained in Congress and as stontly resisted. Many plans for distributing the lands were based on the alleged dangers of federal interference with the states. It is difficult to believe that any danger existed comparable to the evil of having the western lands subject not to one but to twenty or more land systems, as would have been the case had they not been administered by Federal authority.

A gradual development, instead, was the granting of lands to the states for public purposes. Large as were these grants for canals, wagon roads, river improvements, and, finally, railroads, they were small in comparison with the repeated requests of the states. The grants in the enabling acts also increased in size and new objects were enumerated for the enlarged grants. After 1836 the five year tax exemption was dropped, as the credit system had been abandoned in 1820; but a compact containing a stipulation that the public lands were to be free from taxation was retained. After 1864 the land grants in the enabling acts were made without condition, as an exercise of the unlimited power of Congress over the public lands; but the new states had to disclaim any authority over the public lands, although the form of a compact was no longer used. Within recent years the issue has again been raised between the Federal Government and some of the states. The policy of reserving forest and other lands within the states has been opposed as derogatory to the rights of the states and contrary to the spirit of the land system, that the lands should be "disposed of." Taxation of lands within the forest reserves has been suggested on the ground that as the Federal Government had broken the compact by failing to dispose of the lands so the states were no longer bound by the tax-exemption agreement. The forest policy has, however, been supported by the Supreme Court under the unlimited authority of Congress over the public lands. The appropriation of all the proceeds of the public lands within the western states for irrigation works, 1902, was a measure which would have been hotly contested a few decades ago, although manifestly designed for the common good in the largest sense of the term.

Present Land System.—Public lands may be acquired by individuals, and in some cases by associations, under the homestead, timber and stone, desert-land, mining, military bounty, and town site acts. Abandoned reservations, isolated tracts, and certain other limited amounts of land are, from time to time, subject to cash sale. A large amount of land is also patented each year to the land-grant railroads and to the states in satisfaction of grants, and is, thereupon, generally subject to sale at a low price. Private land claims, forest lieu selections, Indian allotments, and va-

rious kinds of land scrip form a good part of the remaining entries each year.

Public Land Statistics.—The cash sales to 1909, including original desert-land entries, were 289,293,608 acres. The aggregate receipts from all sources of public lands, to 1909 were \$423,451,673. The following table summarizes public land transactions in acres:

Final homestead entries	115,124,296 acres
Bounty-land warrants issued	68,790,510 acres
Confirmed private land claims, to 1904	33,440,482 acres
Timber and stone entries (inc. in Cash Sales)	12,556,015 acres
Final timber culture entries	9,855,175 acres
Commutated timber-culture entries (inc. in Cash Sales)	1,010,305 acres
Final desert-land entries (inc. in Cash Sales)	5,149,546 acres
Mineral land (inc. in Cash Sales)	1,575,679 acres
Coal-land entries (inc. in Cash Sales)	505,919 acres
Donations, estimated	3,200,000 acres

Grants to the States.	
Schools	77,359,443 acres
Swamp lands	65,582,503 acres
Railroads	37,853,079 acres
Internal improvements	12,651,482 acres
Education, etc.	18,407,480 acres
Canals	4,598,668 acres
Wagon roads	2,986,632 acres
River improvement	2,245,252 acres
Public buildings	1,362,731 acres
Reclamation	297,665 acres
Grants to railroads	76,486,980 acres

See BOUNDARIES OF THE UNITED STATES, INTERIOR; CESSIONS BY STATES; CONSERVATION; IRRIGATION AND IRRIGATED LANDS; LAND GRANTS; LAND OFFICE; PUBLIC LANDS, RESERVATION OF; SURVEYS OF LAND; WEST AS A FACTOR IN AMERICAN POLITICS.

References: T. Donaldson, *Public Domain* (rev. ed., 1884); Public Lands Commission, *Report*, 1880, *Report with Appendix*, 1905; National Conservation Commission, *Report*, 1909; Commissioner of the General Land Office, *Annual Reports*; "Public Lands" in *American State Papers* (1832-1861); J. W. Magrath, "Public Lands" in *Cyclopedia of Law and Procedure* (1909), XXXII, 759-1247; H. L. Osgood, *Am. Colonies in the Seventeenth Century* (1904), I, ch. xi, II, ch. ii; Shosuke Sato, *Hist. of the Land Question in the U. S.* (1886); A. B. Hart, "Disposition of our Public Lands" in *Practical Essays on Am. Gov.* (1894), ch. x; P. J. Treat, *National Land System, 1785-1820* (1910); C. R. Van Hise, *Conservation of National Resources* (1910), 279-297; Monis Bitch, "Public Lands of the U. S." in *His. Assoc. Rev.*, CXCI (1910), 387-402; Biorin and Dioane, *Laws of the U. S.* (1815); *Existing Laws of the U. S. of a General Permanent Character, and Relating to the Public Domain* (1884); *Laws of the U. S. of a Local or Temporary Character and Exhibiting the Entire Legislation of Congress—Public Land Titles* (1884); A. C. Ford, *Colonial Precedents of our National Land System* (1910); R. T. Hill, *Public Domain and Democracy* (1910); *Am. Year Book*, 1911, 418, 420, and year by year. PAYSON J. TREAT.

PUBLIC LANDS, PREEMPTION OF. Prior to 1841 public lands could ordinarily be purchased only after survey and at auction. This was considered a hardship by the pioneers, who desired a preferential right to purchase, at the minimum price, the lands improved by them prior to the offering. Under the land laws these men who moved in advance of the surveyors were law-breakers; but owing to the slowness of the surveys and the fact that they were extended over good and bad land alike it followed that the "squatters" were often located miles in advance of the rodmen. As long as the lands were needed for revenue it was fitting that every acre should bring the highest possible price, but when the government grew more prosperous it became easy to favor the pioneers. In granting préemption Congress lost little in revenue, for the price of lands had averaged close to the minimum for many years. The préemption right was gradually granted. Before 1800, four special préemption acts were passed; from that time to 1830 it was the practice to grant préemption, for a limited period, to settlers in regions where foreign land claims retarded the surveys; between 1830 and 1841 temporary préemption laws of a general nature were passed; and in the latter year a general préemption was carried, under which the normal method of acquiring land became actual residence for six months on 160 acres, and the payment of \$1.25 an acre therefor. The operation of this law was always accompanied with much fraud. After the Homestead Act of 1862 préemption became of less service to actual settlers and of more value to speculators. For many years the repeal of the préemption law was urged, but it was not carried until 1891. Under the law the right of préemption was based on residence and cultivation for the exclusive use of the settler. The tract was originally 640 acres, but was reduced to 160. Payment was made at the minimum price. See **PUBLIC LANDS AND PUBLIC LAND POLICY**; **PUBLIC LANDS, STATE**. **References:** T. Donaldson, *Public Domain* (1884); *U. S. Statutes at Large* (1841), ch. 16, (1891), ch. 561. P. J. T.

PUBLIC LANDS, RECLAMATION OF. See **RECLAMATION OF PUBLIC LANDS**.

PUBLIC LANDS, RESERVATION OF. From time to time public lands have been reserved from disposition for various purposes. These reservations are made by Congress, by the treaty-making power, or by the President as chief executive. Early reservations were those of four sections in each township (1785-1804), military bounty lands (*see*), salines, school lands in the territories, naval timber lands, townsites, etc. Later large areas were proclaimed as Indian reservations. In 1880, 154,436,362 acres were thus reserved, but with the development of the policy of allotments

only 48,326,908 acres remained in 1910 (*see* **ALLOTMENT OF LAND TO INDIANS**). Of recent years lands have been principally reserved for forest purposes. The act of March 3, 1891, authorized the President to set apart forest reserves in any state or territory having public lands bearing forests; and the act of June 4, 1897, provided for the administration of the reserves and for the exchange of land on the part of persons holding valid claims or patents within their limits. Under this act some 187,406,376 acres, in 153 national forests, located within twenty-two of the states and territories, were set apart by executive order prior to June 30, 1912.

The withdrawal of these large areas from sale, save as mineral land (although agricultural lands within the forests may be entered under the homestead law), has occasioned considerable criticism in the states concerned. Either the whole theory of conservation is opposed because of the checking of settlement and the loss of state and local revenue from taxation, or it is urged that the states rather than the National Government should administer the reserves. The authority of the President to withdraw lands for the public use or welfare has been upheld by the courts, as well as the constitutionality of the creation of the national forests within the states. The administration of these forests is in the charge of the Forest Service, under the Secretary of Agriculture. Thirteen national parks, totaling 4,600,000 acres, are also reserved, the Yellowstone Park, 2,142,720 acres, being established in 1872. Under the act for the preservation of American antiquities, 1906, a number of places of prehistoric and historic importance or of scientific interest have been reserved as national monuments. Since 1903 small areas have been reserved as bird reserves. It is also possible for the President temporarily to suspend from entry portions of the public domain. Since 1906, pending the passage of much-needed legislation, great areas of coal lands, and smaller tracts of oil, phosphate, and power-site lands were withdrawn. This action aroused criticism in the western states, and the power of the President was questioned. By act of June 25, 1910, however, congressional sanction of the practice was given and the right to withdraw temporarily for classification or other public purposes was authorized. Mining rights on the lands so withdrawn, save for coal, oil, gas, and phosphates, were continued, as were homestead and desert-land entries. But in seven of the western states no new forests can be created except by act of Congress.

See **COAL LANDS**; **CONSERVATION**; **IRRIGATION**; **MINERAL LAND**; **PUBLIC LAND POLICY OF THE UNITED STATES**; **SALT LICKS**; **TIMBER LANDS**; **WATER POWER**.

References: U. S. Secy. of the Interior, *Annual Reports*; U. S. Secy. of Agriculture, *Annual Reports*. PAYSON J. TREAT.

PUBLIC LANDS, STATE. State lands are of two kinds: those held by the states prior to the formation of, or admission to, the Union, and those granted by the United States to the states. Of the original states, Massachusetts, New York, Virginia, the Carolinas, and Georgia, possessed considerable areas of ungranted land, even after they had ceded their western claims. Pennsylvania also had state lands. Connecticut, which had no ungranted lands within her limits, reserved 3,300,000 acres from her cession (see **WESTERN RESERVE**). The other original states possessed small areas. These states proceeded to dispose of their lands by grant, by sale, and in satisfaction of military bounty warrants. Sales were made at auction, by tender, or for a fixed price. Vermont and Kentucky, on admission to the Union, had lands at their disposal. Tennessee, which comprised the North Carolina cession, never came under the national land system because of the difficulties arising from the stipulation that North Carolina warrants should be located therein. By acts of 1806 and 1846 Congress vested in Tennessee any unappropriated lands within her limits. Maine, on separation from Massachusetts, received half the unappropriated lands, some of which are still subject to disposition. Texas retained her vacant lands on admission to the Union. Large areas were granted for railroads, education, and public purposes. At present there are no unappropriated lands there, but great tracts of school lands are subject to lease. The enormous grants of lands to the states for education, internal improvements, railroads and public purposes, have been administered and disposed of in many ways. In general the lands have been rapidly sold at a low price, especially the school lands. A few states have managed their property more wisely and have either used a system of lease or else have postponed the sale until the land could bring a fair price. See **CESSIONS BY STATES**; and also states by name. **References:** Public Lands Commission, *Report*, 1905, 26-65; P. J. Treat, *National Land System*, 1788-1820 (1910), 340-355. P. J. T.

PUBLIC MINISTERS. See **AMBASSADORS**; **DIPLOMATIC SERVICE**; **MINISTER**, **PLENIPOTENTIARY**.

PUBLIC MONEY, DIVISION OF. The Division of Public Money is one of the divisions of the United States Treasury Department (see). It exercises a certain supervision over the nine subtreasuries, designates national bank depositories, and exacts the deposit of proper securities from them, records receipts into the treasury, issues directions to public officers with respect to their deposits, and to depositories with respect to the safekeeping of the funds. See **BANK OF THE U. S.**; **DEPOSIT OF PUBLIC FUNDS**; **SUBTREASURY SYSTEM**.

Reference: Secretary of the Treasury, *Annual Report*. A. N. H.

PUBLIC MORALS, CARE FOR. The statute books of American states too often contain much legislation that represents merely the "moral yearnings of the community" as a witty district attorney once put it, and is quite incapable of enforcement. Standards of conduct in public morals reflect public sentiment and prejudice and may be intolerant, arbitrary and despotic even in an otherwise enlightened democracy. They are more often expressed in statutes that are dead letters and weaken the whole fabric of respect for law and government.

The exercise of the police power for the protection of public morals, says Freund, proceeds upon a number of grounds: that vice is intrinsically evil and has no right to existence or toleration; that it impairs the strength of the community; that its practice is of evil example and tends to corrupt others; that its manifestation is offensive to the public and violates the implied conditions of community life whereby each is bound not to outrage in an offensive manner prevailing public sentiment. Measures to secure these ends imply a greater assertion of governmental authority than the protection of the physical welfare of the community through peace, safety and order. Some of the commonest forms of regulations of public morals deal with: Sunday observance, not as a religious principle, but as a day of rest and quiet (see **SUNDAY LEGISLATION**); gambling (see); sale and use of intoxicating liquors; drunkenness and disorderly conduct; sexual immorality; lewd and lascivious conduct; acts of indecency committed in public; obscene literature or performances; prostitution (see **SOCIAL EVIL**); brutality and brutal sports or entertainments (see **CRUELTY TO ANIMALS**; **CRUELTY TO CHILDREN**); public amusements (see); stage censorship; cigarette prohibitions; curfew laws; and regulation of public speech of a seditious or libellous character.

In spite of the constitutional guarantees of religious liberty and of freedom of speech and press such freedom does not leave public morals unprotected and government impotent to punish abuse of freedom. It has been held by the United States Supreme Court that public morals may not be perverted through the plea of religious freedom, for example in the matter of plural marriages dictated by religious beliefs (*Reynolds vs. U. S.*, 98 *U. S.* 145, upholding Edmunds-Tucker law forbidding polygamy in Utah, also 116 *U. S.* 55).

Some very important economic legislation has grown out of the regulation of public morals though later based on other legal grounds of state intervention. Thus the beginnings of factory legislation in England were contained in the Health and Morals of Ap-

apprentices Act (1802). In the regulation of pure foods and fabrics, weights and measures, and all sorts of deceptive practices in trade and commerce the courts often sustain legislation or set it aside on grounds of well defined public opinion, having its basis in the principles of public morals, of which the court will take judicial cognizance or refuse to do so. Thus when Tennessee prohibited (*Acts*, 1897, ch. 30) the sale, offering to sell or bringing into the state for the purpose of selling, giving away, or otherwise disposing of any cigarettes, cigarette paper or substitute for the same, the United States Supreme Court, while upholding the statute as a legitimate exercise of the police power, declined to follow the supreme court of Tennessee which held that cigarettes were not legitimate articles of commerce and said: "Cigarettes are but one of the numerous manufactures of tobacco and we cannot take judicial notice of the fact that it is more noxious in this form than in any other." Probably if the facts concerning the injury to health and morals of minors caused by the use of tobacco in this form upon which public opinion is pretty definitely settled, had been placed before the court or if they are brought to its attention in future cases that may arise, it will hold that public morals require the court to take judicial notice that tobacco in this form is more noxious than in many others.

Justice Brewer once said:

The police power aims primarily at the good of the individual, and it is only incidentally that the state, as an organized entity, is benefited. It

cares for the health, the safety, the life, the good morals of the community. In each of these cases it is the individual who is directly affected, the individual whose health, safety, life and morals are cared for, while the state, as an organized entity, receives its compensation only in securing through the exercise of the police power, strong, healthy, moral citizens.

See AMUSEMENTS, PUBLIC; AMUSEMENTS, REGULATION OF; GAMBLING; HEALTH, PUBLIC, REGULATION OF; POLICE POWER; RACE TRACK GAMBLING; SUNDAY LEGISLATION.

References: Ernst Freund, *The Police Power* (1904); James Bryce, *Am. Commonwealth* (4th ed., 1910), II, ch. xcii, on *Laissez Faire*, and Part IV on Public Opinion; D. J. Brewer, "Legitimate Exercise of the Police Power" in *Charities and the Commons*, XXI, Nov., 1908, 238.

SAMUEL McCUNE LINDSAY.

PUBLIC OFFICE IS A PUBLIC TRUST.

An expression which became the rallying cry of the civil service reformers who supported Grover Cleveland (*see*) in the campaign of 1884. The expression has often been attributed to Grover Cleveland, and, although the sentiment was his, the exact words probably were not. As early as 1881 he stated that "public officials are the trustees of the people." The principle, however, was expressed by Calhoun as early as 1835 when he said, "The very essence of a free government consists in considering offices as public trusts." The words in the exact form of the title above are found in T. M. Cooley's *Principles of Constitutional Law* (1st ed., 1880).

O. C. H.

PUBLIC OFFICERS, CLASSIFICATION AND DUTIES OF

Officers and Persons Employed under Contract.—The state or government may contract for services to be rendered to it, like an individual or a corporation. Such a contract is, subject to special statutory provisions, governed by the ordinary principles of private law, and is protected by the Federal Constitution (Art. I, Sec. X, ¶ 1) against impairment by subsequent legislation (*Hall vs. Wisconsin*, 103 U. S. 5). Such contracts are common in the carrying out of public works and services; thus the mail is carried under contract, while it is collected and delivered by officers. An office rests upon appointment, which is a governmental act, and not upon contract. While in the earlier English law an office was regarded as a species of property, and one American jurisdiction (*North Carolina, Hoke vs. Henderson*, 15 N. C. 1) at one time regarded it as a contractual relation, this idea is now universally rejected. An office is therefore never a vested right, and the Federal Constitution protects it neither under the contract clause nor under the due process clause

against legislative action abolishing the office or ousting the officer.

Officers and Clerical Employees.—Clerical employees share the official status in so far as they have no contractual rights against the government. The line between them and officers cannot be sharply drawn. The functions of a clerical employee are, however, regularly assigned by his chief or superior, and never distinctively conferred upon the place by law; the acts of a clerical employee do not carry official authority and he never exercises compulsory power. For the latter reason a deputy sheriff or a policeman is not a clerical employee, although the functions of each particular place are not specified by law. The positions of officers are generally created by express legal provision, while those of clerical employees are merely authorized by appropriating a sufficient amount of money. An officer always takes an oath of office, and generally is given a commission, while the latter is not issued to a clerical employee, and he does not necessarily take an oath. Legally the distinc-

tion is important in so far as constitutional provisions regarding officers do not necessarily cover employees. Thus there are persons in the official service of the United States, who are appointed neither by the President, nor by heads of departments, nor by courts of justice, as the Constitution (Art. II, Sec. ii, ¶2) prescribes with regard to officers (U. S. *vs.* Smith, 124 U. S. 525), and if the provision that offices shall be held for definite terms applied to clerical employees, it would be impossible to protect them by civil service laws. An officer has a title that can be questioned by *quo warranto* (*see*) proceedings, and he can be reached by writ of mandamus (*see*); neither of these remedies is applicable to a clerical employee.

Civil and Military Officers.—The distinction appears from the designation. The chief executive does not cease to be a civil officer by reason of being commander-in-chief of the armed forces. The diplomatic and consular service belongs to the civil service, but constitutes a distinct branch.

Legislative Officers.—Where the administrative department of the government is carried on in the name of the king, and officers are regarded as the king's servants, the representatives of the people or other members of parliament are not officials, since they do not derive their authority from the Crown nor exercise it in subordination to the same. In America a member of the legislature has been held not to be a civil officer within the constitutional provision regarding impeachment, this form of dealing with misfeasance being either inconsistent with the power of each house over its members, or superfluous in view of it. Otherwise, however, members of the legislature must be regarded as officers. They enjoy various privileges enumerated in the constitutions, the principal one being their immunity from civil liability for acts done in their capacity as members.

Judicial Officers.—The judges of superior courts of record are distinguished by special constitutional provisions intended to safeguard their independence; as a matter of common law they also enjoy absolute immunity from civil liability by reason of their official acts. Inferior judicial officers, notably justices of the peace, have this immunity only when they act within their jurisdiction. It was in connection with judicial officers that the view of office as a beneficial franchise was first questioned and eventually broke down.

Ministerial Officers.—Sheriffs, recorders, clerks, highway and election officers are frequently designated as ministerial. The chief legal consequence of the ministerial character of the office is that the officer acts at his peril in misjudging law or fact, although with regard to election officers this liability is much controverted. Ministerial officers may be compelled by mandamus to do official acts; for this

purpose, however, the character of the particular function rather than that of the office is controlling. Thus certain acts of high executive officers, like heads of departments, and also acts of judges may be treated as ministerial; while the President is never held to act ministerially. The term quasi-judicial is often used to designate acts of administrative officers which are not ministerial.

Constitutional and Statutory Officers.—The Federal Constitution provides in terms for few offices—Congress, President and Vice-President, Supreme Court; the state constitutions, for nearly all the principal offices of the state and county government. If an office is provided for in the Constitution, the functions usually appertaining to it cannot be abrogated by statute or taken from the holder of the office. Aside from the fact that constitutional provisions cannot be impaired by legislation, constitutional officers have no status superior to that of officers created by statute; and especially the difference does not affect the liability to judicial control.

State and Local Officers.—The difference relates chiefly to territorial jurisdiction; the authority of most state officers extends to every part of the state. The local office more particularly is one that is constituted on the basis of local self-government or has at least some organic connection with the organization of local government. Within the locality (county, city, etc.) a further distinction is made between officers exercising delegated functions of the general governments and those exercising corporate functions. For the default or misfeasance of the former the local government in its corporate capacity incurs no liability, and some courts claim that there is an implied constitutional guaranty that corporate offices shall be filled on the principle of local self-government, *i. e.*, not by state appointment. Officers dealing with justice, police, health and education are deemed to exercise general governmental functions.

Office and Commission.—It is sometimes declared that an office is a more or less permanent place under the government, and on that basis is distinguished from commissions created for temporary purposes, and whose authority ends when their purpose is accomplished. The Supreme Court of Illinois sustained the legislative creation of a commission, although the constitution prohibited the legislature from appointing or electing officers (*Bunn vs. People*, 45 Ill. 397). The definition of office in the present constitution of Illinois is derived from this decision.

See APPOINTMENTS TO OFFICE; EMPLOYEES OF GOVERNMENT; GOVERNOR; SUPERIOR OFFICERS; OFFICE; PATRONAGE.

References: F. J. Goodnow, *Am. Administrative Law* (1905); F. R. Meechem, *Law of Public Officers* (1889); M. H. Throop, *Law of Public Officers* (1892). ERNST FREUND.

PUBLIC OPINION AND POPULAR CONTROL

Definition.—It is not easy to limit by precise definition the term "public opinion." It may be the mere "prevalent impression of the moment" of some fraction, however small, of human society; or it may be the permanent and general conviction of a whole nation, or of the world. It generally represents the average of what men believe and feel upon a given subject within a given social unit and it is commonly the result of the action and reaction of the thoughts, feelings, wishes and prejudices of individuals upon each other which produces a result in which the element of pure personal conviction is comparatively small. It may be applied to every conceivable object of thought or feeling. We can trace it in the development of painting, sculpture, architecture, poetry and other literature, and of the moral, political and religious ideals of different times and in different communities. It has existed from the foundation of human society; it underlies the customs of barbarous tribes which it enforces without laws or courts, as well as the elaborate jurisprudence of civilized nations and empires. And yet at times it exerts its power against the law, for it not only changes legislation, it not only uproots and overthrows the institutions and ideals of the past, but it may also defeat and nullify existing provisions.

Even in autocratic or aristocratic governments it has often exercised a greater influence upon institutions and policies than the will of the ruler or of the ruling class. Very few despotisms, even military tyrannies, which persistently disregard it are permanently successful and an oligarchy is obliged, from time to time, to consult it and to conform to its desires (as the nobles of Venice did) in order to retain a secure tenure of power.

Public opinion being a composite of individual opinions is formed of the same elements: (1) consciousness and knowledge, real or imagined of certain facts; (2) feeling and desire which, rather than mere judgment, is the predominant motive for action; (3) volition, the resolve to act—"Let us march against Philip;" witness the general volunteering for service "to save their country" during the first period of the Civil War.

Sources.—The sources of public opinion are manifold. It may grow spontaneously or it may be designedly created or encouraged. It is formed wherever human beings come together for social intercourse or wherever they use the same written vehicles for the communication of thought—in the home, the school (and there are few places where it is more arbitrary), in the village store or post office, in the street, in the marts of business,

in public conveyances, in the town hall, the courtroom, the church, the lyceum, the theatre. It is especially disseminated by voluntary associations formed for the purpose like the anti-slavery, civil service, municipal reform and peace and temperance societies as well as by political meetings and conventions, by party organizations and perhaps most of all by the press. Newspapers have a powerful though not always a controlling influence over it. "Newspapers," says Bryce, "are narrators, advocates and weatherecks." Their influence as advocates has diminished somewhat with the disappearance of the "great editors" from Franklin to Greeley. Public opinion is now influenced quite as much by the facts contained in their news columns as by their arguments; and the tendency of many of them to follow and conform to it, so as to maintain and increase their circulation, makes such papers more reliable as an index of what current sentiment is than as a guide to what it ought to be. The ownership of newspapers by great capitalists, the alliance of some of them with certain special interests, local and otherwise (sometimes unknown to their readers), and their frequent subservience to the desires of influential advertisers often arouse public distrust and make them less the oracles they used to be and still are in a country like England. Still they are powerful agents in controlling opinion, and are so recognized by the important offices often given as government patronage to their editors or proprietors.

Characteristics.—In spite of great diversity of views upon other questions, public opinion has been quite uniform in America upon certain principles considered fundamental; for instance, as to freedom of speech and of the press, complete religious toleration, separation of church and state, jury trial, freedom from monarchy or hereditary nobility, the public school system, etc. There is also a very deep devotion to the Federal Constitution, so great as to render any specific amendments to that instrument quite difficult. But the Constitution has grown under interpretation. This interpretation was inevitable and arose from the necessities of a growing and changing civilization, and especially from the greater concentration of power in the Federal Government required by our increased interstate commerce as developed by improved transportation facilities (see CONSTITUTION, GROWTH OF). Public opinion has generally justified (and perhaps required) the rules of interpretation adopted (see GROWTH OF THE CONSTITUTION).

Within recent years, moreover, a doubt is beginning to arise whether American institu-

tions are in all respects so excellent as we had imagined them. The great power of industrial combinations to control political action, the enormous fortunes and aggregations of capital and the enormous inequalities in the distribution of wealth have convinced many that fundamental changes may be necessary to give the government fuller control than at present over combinations, both of labor and capital, which injuriously affect public life. How far this discontent will spread and how radical the changes it will effect, it is now impossible to foresee.

Public opinion has been less dependent upon leadership in America than elsewhere, although not unaffected by hero-worship. The average of intelligence being high and the citizens self-confident and conscious of their political responsibility, the standard of politicians being often low and influenced by special interests, each man relies more upon his own conclusions as formed or modified by his general environment, than upon any special leader or organ. Yet there has been less individuality of political conviction than in many other places, and a greater willingness to subordinate one's individual views not to a leader, but to the will of the majority. Nowhere is there a stronger conviction that it is vain to oppose this will, and the minority, accepting defeat with good grace, is often persuaded that the decision made was right. Public opinion and government itself acquires great strength and solidity from this fact, although at some expense of individuality. Majorities have not often been wantonly tyrannical. They have been more arbitrary in regard to slavery and in matters of race prejudice than upon any other subject. The American people generally, are good-natured and tolerant—often far too tolerant of abuses till these become insupportable, when they suddenly rise and overthrow them and then relapse again into inactivity.

Public opinion varies somewhat in different sections. It is controlled in the East more by the commercial and manufacturing, and in the west more by the agricultural, interests. It has special currents on the Pacific slope and particularly in the South where race questions assume a greater importance than elsewhere. Party feeling is strong, though it cannot count today upon so much blind adherence as in the past. Independence of political organizations is undoubtedly increasing.

Independent opinion is, however, often difficult to express. It may seek first to obtain its desires within one of the parties; failing this, to organize a new party of its own; or if that be impracticable, to support the party offering the greatest concessions to its views (*see PARTY, PLACE AND SIGNIFICANCE OF*).

Effect on Government.—In a general way public opinion must finally control the political action of every popular government, and there is no other country in which it is so

powerful as in the United States. Nevertheless, there are many instances in which it has been slow and sometimes ineffective in establishing that control, both on account of the lack of accurate information, and on account of defects in the methods of representation.

(1) Lack of knowledge exists not so much in regard to the particular questions at issue as in respect to the qualifications of the representative. People are often mistaken as to: (a) his views; (b) his intelligence; (c) his honesty. He may disappoint them in supporting measures they do not approve, especially as to questions which have arisen since his election; he may unconsciously be tricked into a false course, or he may betray them for a consideration in money, office, or other advantage. No constituency can always predict the conduct of its representative, especially if he be an untried man. To remedy this infirmity the recall of the representative has been tried with more or less success in various municipalities (*see RECALL*). The objection to this is that the liability to be recalled may well discourage men of independent views from running for office and may thus lower the character of the place or the representative body, though it will certainly make it more answerable to public control.

The ignorance of the public regarding the qualifications of candidates is further accentuated by the large number of elective officers to be chosen at a single election and the tendency to place more and more names upon the official ballot. The voter rarely knows anything about the qualifications of the candidates and is thus often driven into the blind support of a complete party ticket. The "short ballot" (*see BALLOT, SHORT*) is now devised to remedy this defect.

(2) Even if a constituency were perfectly informed as to its candidates it would often happen that a large portion of that constituency would not get the men it wanted. (a) They may have merely a choice between objectionable candidates forced upon them by a primary system, in which they have no adequate voice, especially if they are independent in politics. To remedy the evils of the system of party conventions and delegates, which commonly prevails for the selection of candidates, direct primary laws have been enacted in a number of states and the system is rapidly spreading though all the difficulties attending it have not been overcome (*see DIRECT PRIMARIES*). (b) Representation in legislative bodies being mainly by districts or wards, it often occurs that a majority of close districts may favor policies obnoxious to the majority of the entire community and misrepresentation follows. This result is sometimes accentuated by the gerrymander (*see*), where districts are formed by the action of a party for the express purpose of perpetuating its power even against the

popular will. This evil can be remedied (as in Switzerland) by a system of proportional representation (*see* MINORITY REPRESENTATION), which seems particularly applicable to municipalities, where the evils of a division of the representative body into small and independent groups, to which it may lead, would seem less than in national affairs.

In the Federal Government defective representation also results from the constitution of the Senate, where the equal votes of the smaller states may outweigh the vast populations of the greater ones; also in the electoral college which, voting by states, as entireties, without regard to popular majorities, sometimes chooses a President (*e. g.*, Benjamin Harrison) whose competitor may receive a majority of the popular vote cast. To remedy these defects an amendment to the Federal Constitution would be necessary, and as to Senators, such an amendment would require the consent of all the states, which it would undoubtedly be impossible to secure. The federal Senate may also be unrepresentative from the fact that the state legislatures by which Senators are elected, may not properly represent the people in their choice. To remedy this, an amendment to the Constitution providing for the election of Senators by direct vote has been adopted (*see* SENATE; SENATORS). (c) Another defect in representation results from the nature of representative government itself. Such government seems inevitably to be a government by political parties and the party candidate represents the sum total of the principles for which the party stands; at all events he represents a certain aggregate of views upon various subjects. Many of the voters agree with him on some of these and differ from him on others. They must, therefore, support a man who will misrepresent them on certain questions, and the aggregate often involves a misrepresentation of the opinion of a majority of the whole constituency upon these questions (*see* REPRESENTATION; REPRESENTATIVE GOVERNMENT). (d) The views of the community itself may change subsequent to the election, in which case, the representative, if he follow the policy to which he was pledged, must inevitably misrepresent his constituency. Bryce tells us that the Americans are a changeable people. American opinion regarding public men has sometimes shown itself quite volatile, and often in regard to public measures unexpected waves of public sentiment sweep over large portions of the country. When this occurs during the term of one elected under the older régime, misrepresentation may result. For this also the recall may be an appropriate remedy, but the two most commonly urged for all defects in representation in city and state governments (they are not applicable in national affairs) are the initiative (*see*) to compel the enactment of desired legislation

and the referendum (*see*) to defeat laws that are not desired (*see* LEGISLATION, DIRECT). The United States seems to become more and more a democracy, so far as the vast population and complex system of government renders this possible.

But public opinion, as we have seen, may not only create and modify legislation, it may defy and even paralyse it. This appears, not only in the disregard of obsolete laws (like the common-law wager of battle or the blue laws in New England which fell into disuse before repeal) but also by the frequent ineffectiveness of new legislation; for instance, prohibitory liquor laws and laws against prostitution in local communities which do not desire them. It also appears in unpunished lynchings and white-capping for criminal or unpopular conduct and in the persistence, especially in the South and West, of the "unwritten law" or right of private vengeance for offenses against the chastity of the female members of a man's household. In these cases opinion is stronger than law and an entire community sometimes unites to set the law at naught.

Indeed many communities have far too little respect for law. This is caused, in part, by the delays and miscarriages of justice, especially in criminal jurisprudence, and points out the need of a stricter criminal code and a speedier and more effective procedure. But this is by no means the only cause of lawlessness. It is often the result of mere passion and prejudice, and the tortures and burnings by which (especially in the South) it is sometimes accompanied reflect the utmost discredit upon the communities where they occur and even upon the country in which such things are possible.

The decisions of our courts as well as the verdicts of juries are sometimes bent (often unconsciously) in favor of the thing which public opinion demands, a fact which adds to the uncertainties of litigation. While over the judiciary public opinion ought not to have unlimited control, yet even here the general sentiment of the people is sure to be ultimately recognized in interpreting and developing existing law. Judges, like all other human beings, are swayed by the beliefs and feelings of the times. Mr. A. V. Dicey has shown in his *Law and Public Opinion in England* that English public opinion is ultimately supreme even in common law decisions and he has traced the three phases of such opinion during the last century (Toryism, 1800-1830; Individualism, 1825-1870; and Collectivism, 1865-1900), as reflected in the judgments of the courts, sometimes in advance of Parliamentary enactment. The same thing is true in America; but judges ought to be protected against the need of yielding to mere temporary currents of opinion to such an extent that justice and the rights of litigants under existing law will be disregarded. From this point of

view, the project of making judges subject to arbitrary recall is, therefore, fraught with serious danger.

General Effects.—But whatever may be thought of its injurious influence in exceptional cases and of the folly of certain temporary manifestations, like the free silver movement, or of local prejudices like those prevailing against the negro or against Orientals (which seem to be increasing rather than diminishing) it must be said that the general effect of public opinion upon both private and official life has been wholesome. It has helped to preserve morality and the integrity of the family, it has restrained both private and public peculation and corruption, it has restricted the selfish machinations of professional politicians who are always alert to watch it and to follow it but who seldom anticipate or lead it. It acts with peculiar force upon immigrants to America, moulding them sooner or later into citizens with American sympathies and aspirations. It has discouraged class feeling; it is divided, as Bryce says, by lines vertical rather than horizontal. The poor, even where they preponderate greatly at the ballot box, have seldom sought to despoil or injure the rich, or destroy the rights of property, the conviction being general that the protection of these rights is demanded by the welfare of all. In most particulars the tendency of opinion in late years is to become more and more forbearing and reasonable, although the deep feeling now arising between certain labor unions on the one hand and corporations and other employers on the other, threatens to become an exception to this salutary condition and to give rise to more class feeling than has heretofore existed.

While public opinion often errs as to mere methods and in the complex details of administration, yet it is essentially reliable as to ultimate aims and ideals. Give the American people a simple proposition and time enough to think it over carefully and dispassionately and they will nearly always decide it right.

Public opinion has operated more beneficently in the whole nation as expressed through federal laws and administration than in the smaller units of government, the states and municipalities. Thus the anti-trust and anti-railroad laws of various states as well as numerous other laws and city ordinances affecting public service corporations have often been ill devised and ineffective where not positively unjust or corrupt, and federal legislation, in spite of many shortcomings has been slower but more salutary. Federal officials (except in the South, where public opinion has less influence) are generally of a higher grade. Thus the dogma that popular government is only suitable in small communities is abundantly refuted.

The power of public opinion depends first upon its extent and second upon its intensity. If it be practically universal and sufficiently strong nothing can withstand it. It often exercises a power over individuals greater than the fear of death itself, and while its ephemeral or local phases may often be disregarded or ridiculed, nothing is more reliable than its widespread and uniform convictions extending over considerable periods of time. But this need for time and reflection should not be overlooked. Even in such measures as the initiative, referendum, and recall, which are designed to give more immediate effect to popular desires, there should still be left a reasonable opportunity for reflection and for the subsidence of those sudden gusts of passion and prejudice which may make of the opinion of the moment an untrustworthy guide.

See POPULAR GOVERNMENT; REPRESENTATIVE GOVERNMENT; SOCIOLOGY, THEORY OF.

References: J. Bryce, *Am. Commonwealth* (4th ed., 1910), II, 252; J. W. Jenks, "Guidance of Public Opinion" in *Am. Journal of Sociology*, I (1895); E. A. Ross, "Social Control" in *ibid*, I, II (1895-6); A. V. Dicey, *Law and Public Opinion in England* (1905); W. Kittle, "The Making of Public Opinion" in the *Arena*, XLI (1909), 433-450; W. J. Shepard, "Public Opinion" in *Am. Jour. Sociology*, XV (1909), 22-60.

WILLIAM DUDLEY FOULKE.

PUBLIC POLICY. That principle of the law which holds that no person can lawfully do any act which has a tendency to be injurious to the public or against the public good. The term is not susceptible of precise definition, for it changes with changes in the law, and with the controlling current conceptions of what is right and politic. By it all agreements, contracts or acts, having for their object that which is repugnant to justice or good morals, or in derogation of the principles of the common law, or violative of statutes, are forbidden and void. Whether an act, agreement or contract is contrary to public policy, must be determined with reference to its "probable effect, tendency or object, considered with reference to the social or political well-being of the state." The United States Supreme Court has indicated a narrower test as to the scope of the term for judicial purposes, saying:

The question what is the public policy of a state, and what is contrary to it, if inquired into beyond these limits [the Constitution and laws and judicial decisions] will be found to be one of great vagueness and uncertainty, and to involve discussions which scarcely come within the range of judicial duty and functions, and upon which men may and will complexionally differ.

References: E. Greenhood, *Public Policy* (1886), 2; *Vidal vs. Girard*, 2 *Howard* 127, 197; *Egerton vs. Brownlow*, 4 *House of Lords Cases* 1.

H. M. B.

PUBLIC PROPERTY

The largest property owner in the United States is the United States Government; in each state, the state government; in each municipality, the city government; chiefly because of the possession of land and buildings, but also because of cash in hand, supplies, and military material, including ships of war.

Public Money.—Inasmuch as the states have no coinage power, or authority to issue paper money, the great accumulations of specie and evidences of public debt are in the hands of the Federal Government. During the period of the first two national banks (1791-1811 and 1816-1833) the balances of the Federal Treasury were deposited in the United States Bank; but for a brief period (1840-1841) and since 1846, the Treasury has kept its own balances. On June 30, 1912, the Treasury held a reserve fund of \$150,000,000 in gold coin and bullion; trust funds in amount equal to the paper currency outstanding, \$1,524,535,369, of which \$1,040,057,369 was in gold coin and bullion; and a balance in the general fund of \$167,152,479, of which \$48,506,186 was in national bank depositories. On May 31, 1913, the total cash holdings (assets) were \$1,976,659,034.23; the available cash balance was \$133,977,282; and the total cash in sub-treasuries was \$353,612,436.

The cash balances of the state or local governments are commonly deposited in banks, either public money subject to the check of disbursing officers, or deposited to the private account of the financial official, who is responsible for its repayment. Inasmuch as taxes are collected commonly once a year (in some communities twice a year), the available cash varies from month to month, but the state and local governments together probably have not less than \$100,000,000 on deposit.

Public Land.—The Federal Government and many of the states own tracts of land which have never been in private hands. The Federal Government is the prime possessor of the un-granted lands, but several of the original states hold large areas of public land which were in their possession before the Revolution, while other states have obtained large grants for various purposes from the Federal Government. The area of land held by the Federal Government in the continental United States, exclusive of Alaska on July 1, 1912, was 314,874,119 acres. The holdings of the states cannot be ascertained, but it has been the practice of the states quickly to dispose of lands granted to them by giving them away, by granting them as an aid to the construction of roads and canals, or by selling them and applying the proceeds to public purposes. Maine still has some original public land, as

has also New York; and in the states admitted since 1889 there are still large areas held over from the grants transferred by the Federal Government when those states came into the Union. Most of Alaska is still the property of the United States, and in the Philippine Islands nine-tenths of the area belongs to the Insular Government.

The policy, both of the nation and the states, has been to divest itself of public land, but the conservation policy has caused a change, and the tendency is now to withhold forest areas supposed to protect the head waters of navigable streams, water power sites and irrigation sites, and thus to conserve the gifts of nature for the interest of future generations.

Real Estate.—Practically all governments have a title to real estate held for common purposes. Roads and streets are either public property outright or the public has the sole right to use them for transportation and for collateral purposes, such as carrying sewers, and water, gas and electric mains. The title is usually vested in the local government, but sometimes in the states. All roads are subject to being designated by the Federal Government as post roads, which does not affect the title, but makes them interstate highways.

Another class of real estate is the public buildings, often placed in large grounds. The United States, besides a group of enormous structures in Washington, has hundreds of public buildings, used as courthouses, post offices, custom-houses, and internal revenue offices, and the number is constantly increasing. The military posts and navy yards occupy sites which in many cases, like the Presidio in San Francisco and the navy yards of Brooklyn and Boston, have become very valuable. Many cities have costly city halls, schoolhouses are built in the smallest school districts, and police stations and engine-houses make up an enormously valuable property.

One of the most important classes of real estate is the parks, playgrounds, and boulevards, in many cases acquired when land was cheap, now lying in the midst of thickly built quarters. All three types of government, national, state and local, have such pleasure grounds, varying in size from the Yellowstone National Park and the Palisades along the Hudson to the little common of a New England town.

In acquiring public real estate the right to condemn land by eminent domain (*see*) is essential, though tracts are frequently bought by mutual agreement.

Productive Property in the United States.—Few efforts are made to set on foot public enterprises which shall return a profit. A great

exception is in the field of water supply, for which the rates are commonly sufficient to extinguish the cost of the enterprise in the course of years; but American municipalities are obliged from time to time to extend their waterworks both in the enlargement of the supply and in its distribution—and it is doubtful whether any such can actually show a credit balance for the conduct of its waterworks. Some cities have municipal gas works (*see MUNICIPAL OWNERSHIP*) which are seldom profitable in the long run; and many more have municipal light and power works upon which at least a paper profit appears. Two cities (New Orleans and Cincinnati) own railroads. The Cincinnati Southern road has sunk about \$20,000,000; the other is a belt line the productivity of which has not yet developed.

Many foreign cities realize large sums from breaking new streets through contracted quarters, taking the whole area affected, readjusting the street lines, and selling the improved lots. This is the means by which Paris has been rebuilt; but only very few American cities have received authority to engage in a real estate business of this kind.

Supplies and Munitions of War.—Local governments often own road machinery and fire engines: some cities have plants for preparing road material; and schools and other public institutions keep a stock of supplies, such as stationery, furniture and fuel. All the states have some stock of military clothing, equipment, arms and ammunition, and own a few pieces of ordnance.

The United States has a much larger amount of property in supplies. In its 58,700 post offices there lie constantly small stocks of stationery; there is also an equipment of mail bags and other paraphernalia. In the departments in Washington there is a similar accumulation of material, but the largest accumulation of government property exists in military supplies: the arsenals contain machinery and stocks of weapons, explosives, and ammunition: quantities of military clothing are kept on hand and also a supply of food for the Army and Navy. The Government books do not show the value of this moveable property, but it is not less than \$100,000,000.

Neither the states nor smaller localities have public vessels, except a few municipal ferry boats and tugs for health officers; but the United States owns, in addition to other craft, a fleet of over 150 naval vessels, and the investment in this class of property is constantly rising.

Defects of the System.—The main trouble with public property in the United States is that it is carelessly and improvidently used. An immense mineral value lying below the surface of former public lands has gone into private ownership: the forests which are a very important federal property, and which the states are now acquiring by purchase or gift,

are as yet crudely administered; supplies are not properly accounted for. Almost no government of any kind takes the precaution followed by a cautious business man of making an inventory of its property every year. Some cities have not even a register of municipal real estate, and condemned property is sold in an improvident and irregular way. In fact, the ordinary American conception of public property is, in general, that it is an adjunct to the regular public service; engine-houses, school-houses and arsenals are looked upon merely as agencies for protection from fire, for education, and for the supply of the army, and not as pieces of property which might be turned from one use to another; and the condition of which is a matter of public concern.

See CONSERVATION; CURRENCY; HOSPITALS, PUBLIC; MUSEUMS, PUBLIC; PARKS AND BOULEVARDS; PUBLIC DOMAIN; PUBLIC UTILITIES; PUBLIC WORKS, NATIONAL, STATE AND MUNICIPAL; PURCHASE OF PUBLIC SUPPLIES; RAILROADS, PUBLIC OWNERSHIP OF; REAL ESTATE, PUBLIC OWNERSHIP OF; ROADS; STREETS; and under PUBLIC LANDS.

References: Com. on Econ. and Effie., "Report, Dec. 15, 1911," in *House Docs.*, 62 Cong., 2 Sess., No. 670 (1912); U. S. Census Bureau, *Statistics of Cities Having a Population of over 30,000* (1902 to date); A. B. Hart, *Actual Govt.* (1909), § 181; D. Kinley, *Independent Treasury of the U. S.* (1893); J. B. McCrellis (compiler), *Mil. Reservations, Nat. Mil. Parks and Nat. Cemeteries, Title and Jurisdiction* (rev. ed., 1907); National Park Conference, *Annual Proceedings* (1911 to date); H. S. Burrage, *Gettysburg and Lincoln* (1906); J. R. Bartlett, *Soldiers' Nat. Cemetery at Gettysburg* (1874); George Hess, *Hist. of Antietam Nat. Cemetery* (1890); U. S. Quartermaster Gen., *Regulations for Government of National Cemeteries* (1911); U. S. Secretary of the Interior, *General Information regarding Yellowstone National Park* (1912), *Yosemite National Park* (1912), *Sequoia and General Grant National Parks* (1912), *Mt. Ranier Nat. Park* (1912), *Mesa Verde Nat. Park* (1912), *Glacier Nat. Park* (1912), *Casa Grande Ruin* (1913), *Crater Lake Nat. Park* (1912), *Laws Relating to Yellowstone Nat. Park* (1908), *Hot Springs Reservation* (1883), *Glacier Nat. Park* (1911); J. I. Mitchell, *The National Home* (1891); C. E. Hay, *U. S. Mil. Reservations, Nat. Cemeteries, and Mil. Parks* (1904); John Muir, *Our National Parks* (1901); D. W. Reed, *National Cemeteries and National Mil. Parks* (1898).

ALBERT BUSHNELL HART.

PUBLIC PURPOSES OF TAXATION. See TAXATION, PUBLIC PURPOSES OF.

PUBLIC RECORDS. The English have always been careful to preserve their documents and records, partly because private property

and corporate and municipal rights were so dependent upon a preservation of muniments; partly from a veneration for the past. The colonies kept up the habit, both for colonial and local purposes; and followed the English practice of keeping a journal of the proceedings of deliberative bodies, such as the legislatures, town meetings, county courts, the New England Confederation, and the Continental Congresses.

All public records are public property (*see*) and no one can obtain a title to the documents by long possession; but many executives have looked upon it as their right to take away the correspondence and other papers accumulated during their term of office; or have made a distinction between private and public correspondence, so that the records are impaired.

Later generations have been less regardful of the sanctity of the records of their ancestors. Massachusetts, Connecticut and New York, are among the few states that have well organized archives going back to the colonial period. Many significant documents are neglected, fall into decay, or are sold for waste paper.

Since the Revolution, parts of the early public records have been gathered up and printed by enterprising states, and some current records are printed at or near the time when they are made. All the states (except Rhode Island) print the journals of their two houses, their statutes and the decisions of their Supreme courts; some of them have series of reports of heads of state departments and other public officials. The cities rarely print their journals except in a few cases where there is an official newspaper, but they issue plenteous financial reports, and reports of their principal public services from year to year.

The manuscript records of the Federal Government are enormous in extent, notwithstanding destructive fires in 1814 and again, in the Treasury Department, in 1833. Parts of these records have been transferred to the Library of Congress; and pressure has been exercised to secure an archive building.

The printed records of the Government include journals of the two houses, statutes, reports of the decisions of the Supreme Court, and a complex mass of reports of committees, of executive officials, and other matter. Printed editions of the statutes, both federal and

state, are by law made the official text, notwithstanding any variations from the original manuscript rolls. In addition the Federal Government, down to 1873 subsidized publications of its debates, and since that time has issued an official *Congressional Record* containing those debates. No state or city legislature is thus reported.

See DEBATES IN LEGISLATURE; MESSAGES, EXECUTIVE; PUBLICATIONS, GOVERNMENTAL; REPORTS, JUDICIAL; REPORTS OF COMMITTEES.

References: Committee on Documentary Hist. Publications of U. S. Gov., "Report" in *Sen. Docs.*, 60 Cong., 2 Sess., No. 714 (1909); lists and bibliography in Channing, Hart and Turner, *Guide to Am. Hist.* (1912), §§ 42-44.
A. B. HART.

PUBLIC REVENUE, COLLECTION OF. See REVENUE, PUBLIC, COLLECTION OF.

PUBLIC REVENUE, SOURCES OF. See REVENUE, PUBLIC SOURCES OF.

PUBLIC ROADS, OFFICE OF. The Office of Public Roads is one of the bureaus of the Department of Agriculture (*see* AGRICULTURE, DEPARTMENT OF). The Office has no general powers of road administration, construction, or maintenance, but confines its activity to educational and scientific work. It gives instruction in methods of road-building, through the medium of short object-lesson roads, built at local expense, under the supervision of an engineer from the office, furnishes advice to local road authorities upon request, and arranges for lectures and the supply of information on good roads throughout the United States. It also tests road materials, and undertakes other scientific investigations relating to the improvement of roads, especially in rural districts. See ROADS. Reference: Department of Agriculture, *Annual Reports*.

A. N. H.

PUBLIC SCHOOLS. See SCHOOLS, PUBLIC.

PUBLIC SERVICE. A term denoting both the appointive and elective official positions in government. It also applies to military service. It is sometimes used to denote the duties of such service performed in an honorable manner.
O. C. H.

PUBLIC SERVICE COMMISSIONS

Public service commissions are of two kinds, state and municipal. Although the two classes are created for the same general purpose and possess certain characteristics in common, they are so different in functions that they should be treated separately.

State Commissions.—Although commissions having jurisdiction over particular classes of corporations had been established earlier, the New York statute of 1907 was the first to create a "public service commission." When Governor Hughes took office in New York in

1905, he stated that the time had come for a revision of the statutes relating to the regulation of public service corporations, for the extension of the field of control, and for the consolidation of the various authorities having to do with its various phases. He urged upon the legislature the enactment of a law carrying out these general recommendations, and although there was considerable opposition from the corporations upon the one hand and certain politicians upon the other, the Public Service Commissions Law of 1907 was finally adopted with singular unanimity, only five votes being recorded against it in both branches of a legislature having a total membership of 200.

Following the example of New York, other states have established similar commissions. In some instances, (*e. g.*, Vermont and Ohio) they are called public service commissions; in others, public utilities commissions (*e. g.*, Connecticut and Kansas); elsewhere, corporation commissions (*e. g.*, Virginia and Oklahoma); and also railroad commissions (*e. g.*, Wisconsin and Georgia). Although varying greatly in organization, powers and duties, there is no fundamental difference represented by their differences in name. Most commissions have developed out of or been formed about the railroad commissions found in practically every state.

Scope.—Generally speaking, common carriers, and particularly steam railroads, were the first public utilities to be subjected to public regulation, largely for the reasons that local authorities were unable to deal effectively with them; that the abuses which had grown up were more numerous and more widespread than in other fields; and that the commercial development of the country was more dependent upon transportation facilities than upon any other public utility. Consequently, at the beginning of the twentieth century, nearly every state in the United States had a railroad commission. These commissions were dissimilar in many regards, but generally their functions were limited to railroads and other common carriers connected therewith, street railways occasionally being included.

Recently, the movement for regulation and control of all public service corporations has gained considerable headway. Massachusetts was the pioneer state with its Gas and Electric Light Commission of 1885; but for fifteen years Massachusetts was practically the only state which provided for effective control of lighting companies. In certain states the movement for public regulation has resulted in the extension of the functions of the railroad commission to include other corporations, so that the title railroad commission may give no adequate idea of the functions performed or of the corporations under its jurisdiction. In other states, the railroad commission has been abolished or reorganized and given a new title

(see instances mentioned above). In others, the functions distributed among various departments have been transferred to one department and its jurisdiction extended to many matters theretofore outside of the field of supervision.

New York.—In New York two public service commissions were created. One, officially known as the Public Service Commission for the first district, was given general jurisdiction over public service corporations in New York City, although in certain respects its jurisdiction extends beyond city boundaries. The other, officially known as the Public Service Commission for the second district, was given general jurisdiction over the rest of the state, although in certain respects its jurisdiction extends within the City of New York. In addition to the regulation of railroad, street railroad and other common carrier corporations, and gas, electric light, telephone and telegraph companies, the Public Service Commission for the first district may construct, equip, lease and operate rapid transit lines or award franchises to private corporations, subject to the approval of the city authorities.

Functions.—Generally speaking, public service commissions and the other state boards having a similar title, supervise and regulate the principal public service corporations. Although, naturally, the functions of the various commissions vary greatly in detail, the more important have power: (1) to fix maximum rates charged for various classes of service; (2) to prescribe the character and kind of service rendered, *e. g.*, number of trains and cars operated, time schedules, speed, quality and pressure of gas, quality of water supplied; (3) to order repairs, improvements and changes in plant, such as tracks, terminals, stations, motive power, gas works, electric lines, telephone and telegraph systems, water supplies, etc., in order that the company may have the proper equipment with which to give adequate service; (4) to require the installation of devices to promote health, safety and convenience to the public, such as automatic couplers, air brakes, fenders, wheelguards, signal systems, ventilation facilities, etc.; (5) to investigate accidents and to determine whether changes in plant, equipment or method of operation should be adopted in order to prevent repetition; (6) to receive and investigate complaints by aggrieved persons and to order such relief as the facts warrant; (7) to establish uniform systems of accounts and prescribe the manner in which records shall be kept, including the form of annual, quarterly and other periodic reports; (8) to test gas and electric meters; (9) to authorize the issuance of stock, bonds and other financial obligations; (10) to approve franchises, rights and privileges which have just been granted or which have not heretofore been exercised, including the right to determine

whether convenience and necessity require the construction and operation of transportation lines and other means of communication, lighting systems and water works: (11) to examine into the general condition and management of public service corporations and to keep informed as to their methods, practices and regulations, in order to enforce the fulfillment of obligations to the public and the proper management of their property. In addition a few commissions have a limited jurisdiction over municipal plants (*e. g.*, New York, Massachusetts and particularly Wisconsin).

Legislative, Judicial and Administrative Control.—It is apparent that some of these functions are legislative, others quasi-judicial and others administrative. For example, the rate-making authority ordinarily belongs to the legislative branch, but the courts have held that the delegation of such powers to administrative bodies is constitutional. Experience has shown that regulation by legislative act, by judicial decree or by a suit at law, is ineffective. Legislatures are not always in session, in some states only once in two years; their problems are numerous and varied; they do not have the time or the staff of experts to deal with corporation problems; their work must necessarily be restricted to the establishment of certain broad principles. The application of these principles must be turned over to special departments.

The principal function of the judiciary is to rule upon questions of law and not to establish new rules of conduct. Judges are selected presumably because of their legal knowledge and attainments. Familiarity with public utilities and the needs of the people are not within the usual requirements for judicial position. The courts have no staff of experts and are not organized to direct such a staff if one were established. The reasons are plain, therefore, why regulation through the judiciary and through law suits did not prove satisfactory.

A properly organized public service commission has a staff of experts; its members have a knowledge of the special problems with which they have to deal; the commission is constantly in session; its attention is not diverted to other and dissimilar matters; and when it has acquired experience, it deals with corporation problems promptly and fairly.

Organization.—The organization of commissions varies considerably. The number of members is usually three or five. Their salaries rarely exceed \$5,000, but in New York each member is paid \$15,000 a year. Terms of office usually range from three to six years, and members are generally appointed by the governor, although in some states they are elected. The number of employees varies greatly. In the larger states where great powers have been conferred, there is a considerable staff, consisting of engineers, ac-

countants, statisticians, clerks and lawyers. Generally speaking, the appropriations are too small for efficient regulation.

Municipal Commissions.—Since 1908, public service commissions, or authorities having a similar title, have been established in about ten cities—St. Louis, Kansas City, and three other Missouri cities, Denver, Seattle, Los Angeles, Wilmington, Del., and Houston, Texas. The Denver Public Utilities Commission was established to acquire and operate water works, and in this respect differs from the authorities in other cities. Generally speaking, these commissions do not have authority to issue orders or to exercise the powers above stated as appertaining to state commissions. Ordinarily, they investigate complaints, inquire into the enforcement of franchise provisions and ordinances affecting public service corporations, recommend rates to be established and regulations as to service, report upon applications for franchises and superintend construction work.

In a few instances they have gone further. Thus the Wilmington commission, established under a special act of the legislature, has authority to issue orders requiring safe and adequate service, prescribing an accounting system, and fixing rates; and no franchise may be granted without the commission's certificate that it is necessary and proper for public convenience. The St. Joseph commission was also established under a special act and has similar powers, including approval of transfers, assignments, leases or contracts relating to a franchise, the acquisition of stocks and bonds of one corporation by another, and the issuance of bonds.

In two cities these powers are vested in a single individual. In the others, they are exercised by a board having three or five members. Their salaries are not large, and the staff is naturally limited in numbers.

See **BOARDS, MUNICIPAL; CHARTERS, MUNICIPAL; CITY AND THE STATE; COMMISSION SYSTEM OF CITY GOVERNMENT; MUNICIPAL GOVERNMENT; MUNICIPAL GOVERNMENT IN CONTINENTAL EUROPE; MUNICIPAL OWNERSHIP, FUNCTIONS OF; PUBLIC SERVICE CORPORATIONS; RAILROAD COMMISSIONS, STATE; TRANSIT IN CITIES, PROBLEMS OF.**

References: M. Thelen, *Report on Leading Railroad and Public Service Commissions* (1911); A. R. Foote, *Regulation of Public Utilities* (1911); *Laws of Massachusetts, New York and Wisconsin Regulating Gas and Electric Companies*, published by National Electric Light Association (1908); *Am. Year Book*, 1910, 313-316, 1911, 446-452, 1912, 280-283; B. H. Meyer, "Central Utility Commissions and Home Rule," *Am. Pol. Sci. Rev.*, V, Aug., 1911. MILOR R. MALTHIE.

PUBLIC SERVICE CORPORATIONS. Public service corporations (sometimes called

quasi-public corporations) have certain characteristics of public or municipal corporations. They have also many of the essential characteristics of private corporations, *e. g.*, limited liability, perpetual existence and the right to sue and be sued. They have also certain powers and duties which do not attach to private corporations, although there is no sharp dividing line of demarcation.

Statutory definitions vary (for example, Ohio, Maryland and Vermont laws); but generally speaking, a public service corporation is one which operates a public utility (*see*) and it is largely the public character and necessity of the service supplied that leads to the application of certain rules which do not apply to private corporations. A corporation operating a telephone system upon private property for its own use is not a public service corporation. On the other hand, general use by the public does not alone define a public service corporation; a corporation supplying food products performs a general function, but it is not considered a public service corporation.

Eminent Domain.—The right to take land necessary for the service is another characteristic. A railroad corporation would be practically helpless without such right, for the refusal of a few owners to sell their property might effectually block the construction of the road. The public necessity and convenience of transportation systems is so great and the existence and development of a community so largely depend upon adequate transportation that it is considered proper to clothe a public service corporation with the right to condemn private property for public uses. This power is not vital to all public service corporations, for many need private property only to a limited degree; gas and electric companies often do not possess such right, for they can usually secure what land is needed without recourse to condemnation proceedings.

Franchises.—Usually a public service corporation must have a special local franchise in addition to its corporate charter. The right to be a corporation does not necessarily confer any authority to occupy the streets, highways or public places, and most public services involve such use. But neither street use nor a special franchise is absolutely necessary to a public service corporation; express companies usually operate without such franchise, and common carriers may operate wholly on private land.

Obligations.—Because of the public nature of the industry and the special powers conferred, public service corporations have important duties and are subject to restrictions that do not apply to private corporations generally. In the first place, they must serve everyone who complies with reasonable regulations. The private corporation may refuse to supply a person because its managers may

not like his religion, race or habits; but the public service corporation must serve all individuals regardless of personal likes or dislikes. Passengers, shippers and consumers may be classified and regulations may be enforced to protect the interests of the corporation, but this power may not be used to deny service to anyone or to any class.

Public service corporations must provide adequate facilities. The private corporation has no such duty. The grocer is under no legal obligation to provide an adequate supply of potatoes; and if he does not, the citizen has no legal remedy. He must raise his own potatoes or secure them from some other grocer. A gas company, upon the other hand, must provide sufficient gas to supply everyone applying. The consumer has the right to legal redress if the company is careless and indifferent as to the supply.

All charges must be reasonable, and excessive or extortionate rates are illegal; a private corporation may ordinarily exact all it can collect, particularly if there is actual and free competition. A public service corporation may not overcharge, even though it may have a monopoly.

Further, it may not discriminate or grant undue preference. This principle does not mean that everyone must be charged the same rate or that there must be one rate for every commodity or kind of service. Classification of service and consumers is permissible, provided such classification does not result in discrimination or preferential treatment. But when a classification has been made which is proper, every person, community, or locality within each class must be charged exactly the same rate and no variance is permissible. The private corporation incurs no legal penalty when it violates such a principle and may serve one consumer free while charging another under the same circumstances.

Such are the principal features of public service corporations. But the list of specific public services covered is enlarging from decade to decade, for functions which were once considered private and which were defined by contract are now regulated by law and administrative order. In essence the duties and obligations of public service corporations are not new, but only in recent times have they been worked out in such detail and made to apply to such a variety of services.

Publicity.—Two public demands have been prominent in recent years, of which the first is publicity (*see*). It is ordinarily impossible for the public to secure accurate information regarding the operations of private companies. Even stockholders are not able to get full information, and it is not considered desirable that a private corporation should be required to make public all of its business relations. A public service corporation has unusual corporate powers, and has public duties to

perform. Naturally neither the public which it serves nor the governmental authorities, who are supposed to keep it within proper bounds, are able to act wisely and intelligently unless they have complete and accurate information. It is advantageous also to a corporation which is conducting its business properly to have the facts placed before the public. The refusal to give information and protests against publicity usually inspire suspicion and invite attack. The corporations which have received most consideration and have been most fairly dealt with are those who have followed a policy of publicity and frankness.

Government Regulations.—The second great public demand is for governmental regulation, and within the last decade it has spread widely and rapidly. Regulation by statute and judicial decision have been found inadequate to protect the interests of the public, and many states have established administrative bodies for that purpose. Public service corporations have existed so long without adequate regulation and the *laissez faire* doctrine has had such a strong hold that the extent of regulation has not kept pace with the need for it. In ordinary business, competition supplemented by statutes requiring competitors to keep within certain bounds, has been considered sufficiently forceful to protect the public against poor service, high rates and improper treatment in other directions. The movement towards monopoly, however, has been so strong and the elimination of competition has been so complete that the state has had to step in. Even competing services, such as gas and electricity, have frequently been brought under a single management, and there are a number of holding companies which control public service corporations scattered throughout the United States. In the face of such a general and widespread movement, the individual has been helpless without the aid of governmental supervision.

See BUSINESS, GOVERNMENT RESTRICTION ON; CORPORATIONS, BUREAU OF; FRANCHISES TO CORPORATIONS; INTERSTATE COMMERCE COMMISSION; LAISSEZ FAIRE; MUNICIPAL OWNERSHIP; PUBLIC SERVICE COMMISSIONS; PUBLICITY OF CORPORATE ACCOUNTS; RAILROADS, PUBLIC OWNERSHIP OF.

References: Bruce Wyman, *Special Law Governing Public Service Corporations* (1911); Ivins and Mason, *Control of Public Utilities* (1908).
MILO R. MALTBE.

PUBLIC USE. Some constitutional questions as to the acquisition, deprivation or control of property depend for their solution on the question whether the use or purpose for which it is taken or acquired is public.

(1) The owner of private property may be deprived of its ownership or use without his consent under the exercise of the power of eminent domain only where it is taken

for or appropriated to a public purpose (*see* EMINENT DOMAIN).

(2) The power of taxation is a sovereign power, the exercise of which results in a forced appropriation to the public use of private property, and such appropriation can only be justified within the proper limits of the taxing power when the purpose is public. Otherwise such appropriation constitutes a deprivation in violation of due process of law (*see* LOAN ASSOCIATION *vs* TOPEKA).

(3) Private property devoted by its owner to a public use becomes subject in various ways to governmental regulation, especially with reference to the rates of charge which may be made for the use of the property thus employed (*see* MUNN *vs.* ILLINOIS; PRICES AND CHARGES).

The purposes or uses which have been considered to be public in these three groups of cases are not capable of very exact definition nor are they the same in one group as in another. They are the subject primarily of the exercise of legislative discretion under general constitutional limitations relating to the exercise of the sovereign power over individuals and property.

Other proper interference with private property amounting even to a complete destruction or deprivation of a beneficial use may be involved in the exercise by the states or the United States of their essential powers of sovereignty.

See DUE PROCESS OF LAW; NUISANCES, ABATEMENT OF; POLICE POWER; PROPERTY, RIGHTS OF.

Reference: F. J. Goodnow, *Social Reform and the Constitution* (1911), 264-274.

EMLIN MCCLAIN.

PUBLIC UTILITIES. This phrase has recently been coined and has as yet no clear definition except as defined in certain statutes for a special purpose as in New Jersey and California. Ordinarily, it includes railroads, street railroads and other common carriers, water works, gas works, electricity supplies, and telegraph and telephone systems—plants used by the public for the transportation of persons, property and communications, with specific compensation. Streets, sewers and bridges are not ordinarily included, for a specific charge is not made for the service rendered, although in a broad sense they are public utilities; but where a charge is made, like a bridge toll, they are properly included under the definition.

Public use is an important element, for a railroad operated wholly upon private property to which the public has no access is not a public utility. The existence or non-existence of a franchise is not a determining characteristic, although most public utilities cannot legally be operated without it; but there are exceptions, such as express companies,

which ordinarily have no franchise. Use of the public highways is not definitive. A railroad may be operated exclusively upon private property, not even crossing a street, but in ordinary parlance it is considered a public utility. Likewise, a warehouse for the storage and transfer of grain is in certain states included among public utilities. The method of operation is unimportant, for many utilities are operated directly by public authorities while others are in the hands of private corporations subject to governmental control to a greater or lesser degree.

See EXPRESS SERVICE, REGULATION OF; FRANCHISES TO CORPORATIONS; LIGHTING, ELECTRIC; PUBLIC SERVICE CORPORATIONS; RAILROADS,

REGULATION OF; RAILROADS, STREET; TELEGRAPH; TELEPHONES; TRANSIT IN CITIES, PROBLEMS OF; WATER SUPPLY.

References: Bruce Wyman, *The Special Law Governing Public Service Corporations* (1911); E. W. Bemis, *Municipal Monopolies* (1899).

M. R. MALTHIE.

PUBLIC UTILITIES, VALUATION OF. See VALUATION OF PUBLIC UTILITIES.

PUBLIC WORKS, BOARDS OF. See BOARDS OF PUBLIC WORKS.

PUBLIC WORKS, CONTRACT SYSTEM OF. See CONTRACT SYSTEM OF PUBLIC WORKS.

PUBLIC WORKS, NATIONAL, STATE, AND MUNICIPAL

Variety.—The term "public works" may be defined as physical constructions or improvements carried out by governmental agency for the benefit of the public. Works of this kind are inaugurated and prosecuted by every type of public administrative body from the Congress of the United States to the village council, acting directly or through authorized agencies.

The United States Government has been engaged in enterprises of this kind almost from the time of its organization. The public works of the United States Government have been of a varied character and are administered by different departments. Military fortifications and river and harbor improvements are under the charge of the War Department; the construction of naval vessels under the Navy Department; the construction and maintenance of lighthouses and of public buildings under the Treasury Department; and the recent extensive irrigation and desert reclamation work under the Department of the Interior.

Of the several kinds of public work mentioned, the improvement of the rivers and harbors of the country is perhaps of most importance and interest to the public.

Constitutional Question.—The authority of the national government to engage in the construction of lighthouses, the improvement of rivers and harbors and other public projects is usually derived from that clause of the Constitution which confers upon Congress the right, "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes" (Art. I, Sec. viii, ¶ 3). It has generally been accepted that this clause implies the right and duty of the national government to control the physical agencies and facilities of foreign and interstate commerce, including the development and improvement of rivers and harbors, so far as they are an element in such commerce.

The question whether the national government may undertake public improvements that are purely intrastate, or that may be mainly for the benefit of a part of the nation only, was raised and vigorously discussed in the early history of the government. One political party strongly advocated the right and duty of the Government to engage in the construction of canals and highways in the interior of the country that had little or no relation to foreign or interstate commerce, or which were wholly within the limits of a single state; while the other party stood for a strict interpretation of the language of the Constitution, as they understood it.

Up to 1829 Congress was not far from evenly divided upon the question; numerous acts were passed appropriating money for such internal improvements, some of which were approved and some vetoed by the different Presidents; for the famous Cumberland Road (see) appropriations aggregating about seven millions of dollars, were made from time to time. Both Presidents Madison and Monroe in veto messages entered into exhaustive discussions of the constitutional question involved.

Appropriations for National Improvements.—From 1829 to 1860 it seemed to be conceded generally that the strict construction view was right; but soon after the close of the Civil War, Congress began making liberal appropriations for river and harbor improvements, without strict regard to whether they were interstate or intrastate in character, and in time Congress became very lavish with such appropriations. The controlling motive of many congressmen seemed to be to obtain the largest possible amount of money to be expended in their own districts, with little regard to the total cost of the improvements or their adequacy for any useful purpose. The practice of members joining their efforts to

secure desired local appropriations, commonly called "log-rolling," was freely resorted to in the effort of each to obtain as large a share of the spoils as possible. In hundreds of cases the money thus appropriated and expended was practically squandered, and served no public purposes. Little or no permanent benefit, even local, resulted from many of these hastily planned and executed projects, and many of them have long since passed into desuetude and oblivion.

Furthermore, the appropriations for worthy projects were generally inadequate, partly at least, because of the dissipation of the aggregate appropriations available among petty and ill considered projects; and the works of real importance were hampered and delayed by the want of funds to carry them on properly, so that in the end they cost far more than they should.

Eventually, public opinion forced upon Congress a more reasonable and conservative policy, and at the present time it is very difficult to obtain government aid for a river and harbor improvement that is not warranted by its prospective usefulness. The appropriations are concentrated upon projects of actual value and provision is usually made to carry out meritorious projects without delay or the lack of funds to conduct the work in the most economical manner.

Engineer Corps.—Improvements of rivers and harbors have been carried out almost wholly by the War Department through the agency of the Engineer Corps of the United States Army. As early as 1824 Congress enacted that all such work should be executed under the control of the Army engineers, and that policy has been continued ever since. The Engineer Corps of the Army is a body of able engineers built up by selecting from each graduating class at the West Point Military Academy a small number of the ablest and most promising young men, those standing highest in each class, and assigning them to permanent duty in the Engineer Corps, where in course of regular service they acquire practical knowledge and experience in conducting public works. The record of this body of men, both for ability and integrity has been remarkable. In the long period during which the members of the corps have had control of work of great magnitude, involving the expenditure of enormous sums of money, often under conditions that presented peculiar opportunities for wrong doing, only a very few individuals have been convicted of unfaithfulness or dishonesty.

The extent and magnitude of the work, particularly since the Civil War, has made it necessary to employ a large number of civilian engineers under the title of U. S. assistant engineers, to whom, in a large measure, the details and actual supervision of the work has been entrusted, under the general direc-

tion of the officers of the Engineer Corps, and the records of this body of civilian assistants for ability, integrity and faithful service have compared very favorably with those of the members of the corps itself.

The work has been done under the laws, rules, and regulations of the Army, which while doubtless admirably adapted to the control of military operations, are in many respects not so well suited for the conduct of civil public works, and this fact has made the efficient and economical administration of such work more difficult and perplexing.

The long experience of the War Department in conducting civil public works has developed a very complete and effective organization and system of administration. Under the Secretary of War, the executive head of the Engineer Corps is the Chief of Engineers. The country is divided into geographical districts to the general charge and control of each of which is assigned one of the senior or more able officers of the Corps. These districts may be divided into subdistricts in charge of younger officers, many of whom are, however, assigned to the immediate charge of some individual project though these are more frequently under the direct charge of the U. S. assistant engineers. The strict discipline of the military arm of the service is enforced in the engineer corps and its work, with such modifications only as the different nature of the work makes necessary.

Expenditures and Notable Works.—The total amount appropriated by Congress for the improvement and maintenance of rivers, harbors and canals, and for examinations, surveys and contingencies relating thereto, up to the end of 1910, has been nearly \$625,000,000, of which only about 2.7 per cent was appropriated before the close of the Civil War, and over 43 per cent was appropriated in the period from 1900 to 1910 inclusive. This does not include the expenditures for the Panama Canal.

The most important public work upon which the government is now engaged, and one of the greatest works of the age, is in the construction of the ship canal across the Isthmus of Panama (see CANAL DIPLOMACY; PANAMA CANAL). Congress placed the construction of this gigantic project under the direction and control of the President of the United States, though the work is being done under the immediate superintendence of officers of the Engineer Corps of the Army.

Other Federal Public Work.—The construction and maintenance of lighthouses and lights along the coasts and upon the navigable waters of the country is one of the most important services and aids to the commerce of the country. This work, under the Treasury Department, is in charge of the Light House Board, composed of two Navy officers, two officers of the Corps of Engineers of the Army,

and two civilians of high scientific attainments. The work in this department has been of a high character, comparing very favorably with that of any other nation.

The Treasury Department also has charge of the construction and maintenance of the government buildings of the country, such as post offices, custom-houses, courthouses, etc. This work is under the immediate direction and control of the "Supervising Architect of the Treasury" by whom plans for new buildings are prepared or approved and the buildings erected.

The very extensive desert land reclamation work now being carried on under the Interior Department through the reclamation department of the Interior Department is not, strictly speaking, government public work. Its object is to expedite the reclamation of desert lands by the construction of irrigation projects the cost of which is to be refunded to the government within stated times by the owners of the reclaimed land. The work has been conducted on a very large scale with eminent success, and it affords some quite remarkable examples of modern engineering work and skill.

State Works.—Public works confined within the limits of a single state, other than those relating to general commerce, are carried out under the direction of and at the expense of the individual states. Such projects belong to the class to which the general name "internal improvements" is usually applied. Projects of this class have a very wide range in character and extent, and the tendency seems to be to enlarge the sphere of the state activities to embrace classes of public work that heretofore have been assumed by counties and municipalities, such as the construction of highways and the control of water resources for power or for domestic use. In the earlier history of many of the states large sums were contributed by the legislatures to private persons or corporations to encourage and assist in the construction of public projects that were deemed important for the development and prosperity of the state, such as highways, canals and railroads.

The methods adopted for carrying out public enterprises by the state have not been uniform. In the majority of cases they have been executed under the immediate direction and control of some state department or officer, either existing or created for the purpose, but in many cases special boards or commissions have been appointed to carry out individual projects.

Canals and Highways.—In the earlier history of the country, before the era of railroads, facilities for transportation were considered of prime importance and very large sums of money were expended by the states in the construction of canals and highways. New York, Pennsylvania and Ohio particularly, expended sums that, for the period, may fairly be termed enormous, in the construction of canals, whose life and usefulness were cut

short by the rapid and extensive development of railroads. The Erie Canal, first opened from Buffalo to Albany in 1842, was not only one of the most notable public works of the period, exerting a vast influence on the commerce of the state and the country, but its useful life has extended down to the present time, and it is now (1914) being rebuilt on a much larger scale at an expense to the state of more than one hundred millions, and its friends predict a great enlargement and a long extension of its life of usefulness (*see CANALS AND OTHER ARTIFICIAL WATERWAYS*).

At the present time the revival and extension of the work of building highways is perhaps the most notable feature of state public work. In a large number of the states special departments have been created to deal with the matter, and very large sums of money are expended every year to aid the counties and municipalities in the construction and maintenance of improved roads.

Contract System.—Public work, whether national, state, or municipal is to a large extent, carried out under the contract method, though a great deal of river and harbor work has been done by the government by the direct or day's work method (*see CONTRACT SYSTEM OF PUBLIC WORKS*). This has been resorted to in many cases because the contractors defaulted or failed to satisfactorily prosecute their work. Whatever may be the cause, such failure seems to be more frequent in the case of national government contracts than in any other class. Furthermore, not a little of the work is of such a character that it is difficult to estimate in advance its quantity, cost, or the difficulties to be encountered, and contractors can not intelligently submit proposals, particularly in view of the rigid compliance with contracts and specifications which the officers in charge have no choice but to enforce.

State public work is in most cases carried out under the contract system and the state laws frequently permit no other course, though in many instances it would be better if the state authorities were permitted to exercise their discretion in the matter.

In a great majority of American cities the laws require that all construction of public works shall be awarded at public letting to the lowest responsible bidder, although in exceptional cases the work could doubtless be done both more satisfactorily and economically by the municipality itself. As a rule, however, the prosecution of public works under the contract system has been proved by long experience to be preferable.

See AQUEDUCTS; CITY PLANNING; CONTRACT SYSTEM OF PUBLIC WORKS; EMINENT DOMAIN; EXPERTS IN AMERICAN GOVERNMENT; GOOD ROADS MOVEMENT; PANAMA CANAL; PARKS AND BOULEVARDS; PUBLIC BUILDINGS, FEDERAL, STATE AND MUNICIPAL; ROADS; STREET COMMISSIONS AND COMMISSIONERS.

References: W. M. Black, *United States Public Works* (1895); Chief of Engineers, U. S. A. *Annual Reports*; A. B. Hart "Biography of a River and Harbor Bill" in his *Practical Essays in Am. Gov.* (1894), ch. ix; U. S. Secretary of War, "Preliminary Examinations, Surveys, Projects and Appropriations" in *House Docs.*, 55 Cong., 2 Sess., No. 482 (1898), 57 Cong., 2 Sess., No. 421 (1892); *American Year Book*, 1910, and year by year.

SAMUEL WHINERY.

PUBLIC WORKS, STATE ACCOUNT SYSTEM OF. Under the state account system of public works, the government, city, state or national, undertakes to do the work directly and not by contract, furnishing the capital, the material, the tools, the machinery, employing the labor, etc. The fundamental defect in constructing public works indirectly through contract instead of directly by government officials is the ever-present temptation of dishonesty. The contractor's compensation is the difference between what the work costs him and what the government pays him for doing it. He is, therefore, too often, tempted, by peculation, fraud and corruption, to increase his compensation in the numerous ways known to the contractor. Another defect in practice has been the collusion or pooling of interests so that bids are not competitive, and that the price at which the work is done bears no consistent relation to its actual cost. Moreover, the governmental activities involved in the adequate inspection of work done under contract necessitates as expert knowledge as if the public authorities were doing the work themselves. The third defect in the contract method lies in careless, inadequate inspection through collusion between the inspector and the contractor. A troublesome defect lies in the specifications given in the requests for bids. Unless these are drawn with as great care as if the public authorities were to do the work themselves, there is opportunity for needless leakage of public moneys.

Those who favor the direct system of building public works urge that these various defects and wastes can be eliminated. They point to the quality, durability, usefulness and reasonableness of cost with which such works have been accomplished. The opponents of direct government action dwell on the possibilities of political interference. To this the friends of the method reply that political interference is no greater under the direct system than under the contract system, and that there is no essential reason why public activities of this direct nature should be allowed to become either a pension agency, a charitable organization, or an adjunct to a political party.

See CONTRACT SYSTEM OF PUBLIC WORKS; PUBLIC WORKS, NATIONAL, STATE AND MUNICIPAL.

CLYDE L. KING.

PUBLICATION. (1) Publishing and distributing copies of a law. This is no part of the enactment of law, and should not be confused with promulgation. (2) The declaration by a testator that a certain writing is his will. (3) The opening of depositions, in chancery, to the inspection of the parties. (4) Advertising in a newspaper or otherwise the summons or other process or order in a case. (5) The communication of a libelous statement to third persons. (6) In copyright law, making public a book, chart, map or picture.

H. M. B.

PUBLICATIONS, GOVERNMENTAL. The official publications of the United States Government are classed as congressional or departmental according as the order to print originates with the legislative or the executive branch, court reports being as a rule issued by private publishers.

Congressional publications include the *Journals* of each house, the debates (*see CONGRESSIONAL RECORD*), *House Reports* and *Senate Reports*, *House Documents* and *Senate Documents*, bills and resolutions, testimony taken at committee hearings and other material printed for legislative use. The *House* and *Senate Journals*, published generally at the close of each session, contain the official minutes of the legislative proceedings as distinguished from the full report of debates printed in the *Congressional Record*. The *House* and *Senate Reports* are strictly legislative, being the reports of committees on bills and resolutions referred to them. The *House* and *Senate Documents* include Presidents' messages and the foreign relations; reports of the executive departments, bureaus, commissions and other government establishments, and estimates of appropriations, transmitted annually to Congress in accordance with law; various other departmental publications, of which an edition is provided for congressional distribution; the official *Congressional Directory*; *House* and *Senate Manuals* of procedure; and miscellaneous publications ordered to be printed for the use of either house. The *Reports* and *Documents* in each series are now numbered consecutively throughout the Congress to which they belong and, beginning with the 15th Congress, are made up into numbered volumes known collectively as "Congressional Documents." Bills and resolutions are printed when introduced and reprinted with amendments at various stages of their legislative history, for the use of members. The text of a bill is occasionally printed in the report upon it and efforts have recently been made to induce Congress to provide for its inclusion in the case of every public bill. Testimony taken at hearings is generally printed for the use of the committee, occasionally included or summarized in the committee's report, and, in the case of the more important legislation,

printed also as a House or Senate Document.

The *Journal of the Executive Proceedings* of the Senate, as a part of the treaty-making power or on nominations of public officers, is not published until after the lapse of several years. Treaties submitted for ratification and executive communications relating thereto are printed as confidential documents and are not made public until the injunction of secrecy is removed by order of the Senate.

Publication of historical documents and records has been provided for or authorized by Congress from time to time but no definite plan has been followed. The creation of a permanent commission on national historical publications, as proposed by an advisory committee of historians to the Committee on Department Methods in 1909, is urgently needed both in the interest of economical expenditure for this purpose and to provide that the whole field of American history shall be adequately covered. The principal collections which have been published officially are: *American Archives*, a documentary history of the American Revolution, nine volumes covering the period 1774-1776; *Public and Secret Journals of the Continental Congress*; *Revolutionary Diplomatic Correspondence*; *American State Papers*, 38 volumes of selected documents covering the early Congresses (down to 1838 in some cases) and classified in ten divisions—foreign relations, Indian affairs, finance, commerce and navigation, military affairs, naval affairs, post office, public lands, claims, and miscellaneous; *Documentary History of the Constitution*; *Journals of the Confederate Congress*; the *Rebellion Records*; *Messages and Papers of the Presidents*.

Departmental publications may be grouped by subject matter in the following classes: (1) Law and administration—laws, treaties and executive proclamations, issued by the State Department; opinions of the attorneys general, and decisions, rules and regulations made under the laws relating to the public treasury, customs, internal revenue, money and banking, interstate commerce, shipping, quarantine, immigration, naturalization, public lands, patents, pensions, food and drug inspection, etc., by the executive officers charged with their administration; annual administrative reports, official registers, manuals, orders and circular instructions for the various branches of the civil, military and naval services. In other countries, much of this material, here issued in numerous leaflets and pamphlets, is included in a single publication, the official *Gazette*. (2) Foreign affairs—diplomatic correspondence and international law publications (State Dept.). (3) Territories and insular possessions—reports of territorial governors and on Indian affairs (Interior Dept.) and Porto Rico and the Philippines (Insular Bureau). (4) Economic and social conditions—statements of the public finances,

money in circulation, condition of the national banks, production of precious metals (Treasury Dept.); census reports and bulletins on population, vital statistics, occupations, agriculture, manufacturing and other industries, wealth, debt and taxation, dependents, delinquents and defectives; statistics of commerce and navigation; consular reports and special investigations of trade conditions abroad; reports on industrial combinations (Department of Commerce); reports and bulletins on labor statistics and social conditions, and on infant mortality and child welfare (Department of Labor); statistics of railways (Interstate Commerce Commission); statistics of crops and farm animals (Department of Agriculture) and of mineral production (Geological Survey). (5) Results of scientific investigations—in relation to the following: agriculture, horticulture, forestry, animal industry and foods (Department of Agriculture); fish and fishculture (Bureau of Fisheries); natural history (National Museum and Biological Survey); geology, water supply and mineral resources (Geological Survey); mining (Bureau of Mines); weights and measures (Bureau of Standards); aids to navigation (Coast Survey, Hydrographic Office, Naval Observatory and Nautical Almanac Office); contagious and infectious diseases and public hygiene (Public Health Service); American Indians (Bureau of American Ethnology). (6) Public works—reports on river and harbor improvements (Engineer Corps); the Panama Canal (Isthmian Canal Commission); irrigation works (Reclamation Service), etc.; tests of engineering materials (Ordnance Board) and of road making materials (Public Roads Office). (7) Public instruction—reports and bulletins of the Bureau of Education.

Each state issues its session laws, legislative journals, and reports of the various state officers, departments, bureaus, boards, commissions, and state educational, charitable, and correctional institutions. In many states a collected edition of these reports (*e. g.*, "Appendix to the Journals," "Documentary Journal," "Public Documents" or "Reports") is published in addition to the separate issues. The journals often include governors' messages and reports of legislative committees; but in Massachusetts these, together with bills, reports of special commissions, etc., form separate series of house and senate documents. Pennsylvania is the only state which publishes its legislative debates. Proceedings of constitutional conventions are generally reported currently in local newspapers and afterwards reprinted. Among other state publications are legislative manuals, compilations of laws, public service regulations, school documents, statistics, bulletins on agriculture, geology and mining, natural history, public health, charities and corrections, historical records and the publications of state historical societies, and

reports of agricultural, horticultural and live stock associations.

See ACT OF CONGRESS; CONGRESSIONAL RECORD; GOVERNMENT PRINTING OFFICE; JOURNALS OF LEGISLATIVE BODIES; LIBRARY OF CONGRESS; REPORTS OF HEADS OF DEPARTMENTS; REPORTS OF JUDICIAL CASES.

References: A. W. Greely, *Public Documents of the First Fourteen Congresses, 1789-1817* (1900); B. P. Poore, *Descriptive Catalogue of the Government Publications of the U. S., 1774-1881* (1885); J. G. Ames, *Comprehensive Index to the Publications of the U. S. 1881-93* (1905); Supt. of Documents, *Catalogue of the Public Documents, 1893-1907* (1896-1912); *Monthly Catalogue, U. S. Public Documents* (current); *Tables of and Annotated Index to the Congressional Series of U. S. Public Documents, 15th-52d Cong., 1817-93* (1902), continued by *Index to the Reports and Documents for each session to the 62d Cong.*; *Check List of U. S. Public Documents, 1789-1909* (1911), Vol. I; *Lists of Congressional and Departmental Publications* (1911); Committee on Department Methods, *Report on Documentary Historical Publications of the U. S. Government* (1909); E. Everhart, *Handbook of U. S. Public Documents* (1910); R. R. Bowker, *State Publications* (1899-1908); A. R. Hasse, *Index of Economic Material in Documents of the States of the U. S. to 1904* (1907-12), in progress, 12 vols. issued to date, viz. N. Y., N. H., Vt. Me., Mass., R. I., Cal., Ill., Del., Ky.; Library of Congress, *Monthly list of State Publications* (current).

J. DAVID THOMPSON.

PUBLICITY. In a popular government a large amount of publicity concerning public affairs, is absolutely necessary. For the people to decide any public question, knowledge is requisite and knowledge by the people means publicity. No popular government can thrive without it. The genius for publicity, an inquisitive desire for news (greatly promoted by newspaper enterprise); nay more, an inability to keep even those things secret which ought to be kept secret, seems to be one of the characteristics of the American people. Compare for instance the state secrets of the Venetian oligarchy, secrets which after centuries are, many of them, still unrevealed, with the pitiful and unsuccessful effort to keep from the press the proceedings of our federal Senate when in executive session. The desire for publicity as well as the need of it, increases with the present tendency toward a more complete democracy as shown in the adoption by many municipalities and by some states of the initiative, referendum and recall.

In the earlier days of our republic the need for publicity was by no means as apparent as it is at the present time. The United States Senate sat with closed doors until February 12, 1794, when a resolution passed that

these should be opened at the beginning of the following session at all times while the Senate was engaged in its legislative duties. Its executive sessions are still secret. This is quite proper while that body is considering foreign treaties or other diplomatic business, but in the consideration of general executive appointments there is doubt whether it has not produced far more harm than good. The purpose is to secure greater freedom of discussion regarding the records and character of the men nominated to office; but the freedom thus secured is not only subject to abuse, but like all other secret proceedings, it is open to suspicion even where it is not abused (see SENATE). It is natural that the people should distrust what is concealed from them. This distrust also extends to all legislative proceedings which are not published—to hearings upon particular measures by committees with closed doors; to the smothering of various projects in such committees; to the secret agencies by which bills are prepared outside of the legislature itself; to the manipulations of secret caucuses and of political rings and bosses which determine what bills shall pass and what shall be defeated or suppressed. This distrust has led to a demand for increased action by the executive as the responsible head of the community, even in matters which properly belong to legislative bodies. It has also led to greater constitutional restrictions, limiting the powers of such bodies and the terms of their sessions, and to the further demand for the direct participation of the people in the election, for instance, of United States Senators, and in the determination of measures of various kinds by popular vote.

It is everywhere realized that secrecy protects corruption, that jobs are undertaken and bad appointments made in inverse ratio to the notice they attract; that publicity not only exposes impurities, for removal or salutary treatment, but also of itself purifies the currents of governmental affairs and gives to the people that confidence and hopefulness necessary to the success of their institutions. Publicity in official accounting, publicity in campaign contributions, publicity in corporate management, are only three illustrations of that general publicity desirable in all public affairs in every department of government and in regard to all matters in which the people have a general concern. Only three important exceptions still remain: secrecy is still considered indispensable in war, in diplomacy and for the detection of criminals.

See POPULAR GOVERNMENT; PUBLIC OPINION AND POPULAR CONTROL; PUBLICITY OF CORPORATE ACCOUNTS.

References: F. Lieber, *Civil Liberty and Self-Government* (1859), ch. xiii; J. Bryce, *Am. Commonwealth* (4th ed., 1910), 11, 252, et seq.; Woodrow Wilson, *Address at Portland, Oregon, May 18, 1911* (reported in press the fol-

lowing day): H. W. Steel, "Publicity in Social Work" in Conference of Charities and Correction, *Proceedings* (1908), 262-7; C. J. Bonnaparte, "Gov. by Public Opinion" in *Forum*, XI (1908), 384-90; A. T. Vanece, "Value of Publicity in Reform" in *Am. Acad. of Polit. and Soc. Sci., Annals*, XXIX (1907), 87-92.

WILLIAM DUDLEY FOULKE.

PUBLICITY OF CORPORATE ACCOUNTS.

Publicity of corporate accounts involves: (1) the prescription by competent authority of forms of account in which the results of the business of public service corporations may be clearly stated; (2) the publication of these reports in a form available for general use.

Advantages.—The advantages of publicity are: (1) public; (2) private. In the field of public service corporations the right and duty of the legislature to regulate rates, fares and prices, either directly or by commissions to which its authority is delegated, is generally admitted. This duty cannot be properly discharged without full knowledge on the part of the regulating body of the financial condition and the operating results of the companies which it is desired to regulate. It is also important that the public whose intelligent support and coöperation is necessary to the satisfactory working of any plan of regulation, should be fully informed as to the affairs of the corporation subject to regulation, so that an intelligent public opinion can be developed as to the rights and duties of public service corporations.

The private advantages of publicity relate to the investor. If a full disclosure at regular intervals is made of the condition of a corporation, including its income and operating accounts, and a statement of its assets and liabilities, the investor can buy its stocks or bonds on the basis of an investigation of their value as revealed by the reports. There is, moreover, less opportunity for the carrying on of speculative manipulations in securities when the facts concerning these securities are generally known.

Custom.—Publicity is now the rule in the United States. All railroads doing an interstate business are required to file complete statements annually with the Interstate Commerce Commission as well as brief statements of earnings, etc., monthly. The public service commissions, now found in many of the larger states, require similar statements from all corporations subject to their jurisdictions. These reports are published and are available to any citizen.

It is now the custom of most industrial corporations, although this may not be required by any public authority, to issue to their stockholders fairly complete reports of their condition. These reports made out in great detail are also furnished to stockholders by the railroad companies. Similar reports are

required by all stock exchanges for listed securities. All reports furnished to stockholders in advance of the annual meetings are promptly sent to the newspapers, and receive extended reviews in the financial columns.

Effect of Taxation.—The Corporation Tax Law requires annual statements of income and expenditure to be filed with the various commissioners of internal revenue by every corporation whose net income exceeds \$5,000, to be used as a basis for assessing the tax. These reports are considered as confidential so far as the general public is concerned, but any stockholder of any company, and in the case of companies making a public offering of securities, or whose stocks or bonds are dealt in on any public exchange, any person having a legitimate interest, may upon application to the Secretary of the Treasury obtain permission to inspect these confidential records and to make copies of the figures therein contained. As a result of this permission, it is not going too far to assert that publicity of corporation accounts is now universal in the United States.

See BANKS, EXAMINATION OF; FRANCHISES TO CORPORATIONS; INSPECTION AS A FUNCTION OF GOVERNMENT; PUBLIC SERVICE COMMISSIONS; PUBLIC SERVICE CORPORATIONS; RAILROADS, PHYSICAL VALUATION OF; STOCKHOLDERS, LEGAL STATUS OF; UNIFORMITY OF PUBLIC ACCOUNTS.

References: C. E. Littlefield, "Publicity and the Trusts" in *Independent*, LV (1903), 539; F. E. Horack, *Organization and Control of Industrial Corporations* (1903); E. S. Mead, *Trust Finance* (1903), 371-374; Arthur W. Machen, Jr., *Treatise on the Modern Law of Corporations* (1908), ch. xviii.

E. S. MEAD.

PUBLICITY OF PARTY EXPENDITURES. See PARTY EXPENDITURES, PUBLICITY OF.

PULLMAN CARS, REGULATION OF. By an amendment to the Interstate Commerce Act in 1906, sleeping-car companies were declared to be common carriers within the meaning of the act and were therefore subjected to all its provisions. Two classes of sleeping-car companies exist: those owned and operated by railroad companies as a part of their regular service, and hence subject to the act from the beginning; and independent car-owning companies, of which at present the Pullman Company is the sole representative. By far the greater number of sleeping cars are owned by the Pullman Company and are operated by the railroads under contract. The terms of these contracts vary greatly and involve numerous details as to the care and repair of cars, their equipment, liability for accident, and the like, but the principal clause usually provides for the payment by the railroad for the use of the car, of mileage graduated ac-

according to Pullman earnings. The Pullman Company receives in addition the special fares from passengers.

Sleeping-car companies have claimed that they are not common carriers but merely equipment companies engaged in providing a special facility, and courts have in past years sometimes sustained this contention. But the issue has not been drawn since 1906.

The commission has required an annual report from the Pullman Company in accordance with the provisions of the Act to Regulate Commerce and has examined and to some extent modified its accounting practice. Moreover, in one important decision (*Loftus vs. Pullman Co.*, 18 *I. C. C. Rep.* 135, 19 *I. C. C. Rep.* 102), it has lowered certain berth rates, the significant point of the decision being the creation of a discrimination between the rates for lower and upper berths.

See COMMON CARRIER; INTERSTATE COMMERCE DECISIONS; INTERSTATE COMMERCE LEGISLATION; RAILROAD COMMISSIONS, STATE; SLEEPING CARS.

Reference: E. R. Johnson and G. G. Huebner, *Railroad Traffic and Rates* (1911), II, 102-106. F. H. D.

PUNISHMENTS, CRUEL AND UNUSUAL.

The Eighth Amendment to the Federal Constitution provides that cruel and unusual punishment shall not be inflicted. The state constitutions have like provisions. The Massachusetts Body of Liberties (1641) contained words of similar character and the same expression was used in the English Bill of Rights of 1688.

What punishments are cruel and unusual it is difficult to say. Plainly the mere novelty of the method of inflicting punishment does not bring it within the prohibition. Execution by shooting (*Wilkerson vs. Utah*, 99 *U. S.* 130) and also the infliction of death by electricity (*People ex rel. Kemmler vs. Durston*, 119 *N. Y.* 569) have been upheld as not cruel and unusual. Plainly on the other hand, punishments involving torture or lingering death are forbidden. The Supreme Court of the United States, however, in 1910 went farther than this (*Weems vs. U. S.*, 217 *U. S.* 349), and declared an act void because the punishment provided by statute appeared to be altogether disproportionate to the offense.

See CRIMES; CRIMINAL LAW; PENALTIES FOR CRIME.

References: T. M. Cooley, *Constitutional Limitations* (6th ed., 1890), 401-403; D. K. Watson, *Constitution of the U. S.* (1910), I, 1512-1522. A. C. McL.

PUPILS IN SCHOOL, LEGAL RIGHTS OF.

In general public schools must provide instruction for all children that are defined as being of legal school age. It is necessary to provide this instruction only within the district where

the child lives. When no means for education are at hand within the district some fair arrangement must be made such as the payment of tuition fees in a nearby school district. Instruction can be refused when the child's conduct, attitude, or health is a menace to the welfare of the school. The power of punishment of the teacher and school officials is not limited to acts of the pupil during school hours but extends to acts in going to or returning from school, and even beyond that if the welfare of the school is affected. It has been held that regulations for the social life of the pupils during the school year are valid. Race or nationality bars no child from a public school unless a special school is provided that furnishes equal privileges and educational facilities. Pupils need not do work that should be performed by school officials. Teachers have the right to punish so long as they are not actuated by malice, or inflict punishment wantonly. In many states pupils are required to attend a certain number of days each year unless a reasonable excuse is accepted by the truant officer. See EDUCATIONAL ADMINISTRATION. References: S. M. Wilcox, "Legal Rights of Children" in Bureau of Education, *Circular*, No. 3 (1880) 96; R. C. Hill, "High School Fraternities" in *Educational Review* (Feb., 1912). J. V. B.

PURCHASE OF PUBLIC SUPPLIES AND PROPERTY.

One of the most difficult functions of American government is to make the necessary purchases of materials and supplies for public use, an outlay which is surpassed only by the salaries of public officers as a department of public expenditure. The American government erects public buildings and buys building materials of every kind; it supports paupers, prisoners and other dependents and provides food, clothing and other necessities for them; it constructs public works involving heavy purchases; supplies working materials and tools, work animals and other forms of power; purchases large quantities of office supplies and stationery. Nowhere in the United States is there a proper machinery for this public function, constructed with the same skill and exercising the same precaution as is daily shown by the purchasing agents of railroads and other great corporations.

A prime difficulty is the diffusion of purchases among a multitude of individuals and boards. Normally, every separate organization, such as school trustees in a district, wardens of county jails, overseers of the poor, highway commissioners, managers of public bathhouses, city school boards, trustees of insane hospitals and other public institutions, and each of hundreds of state and national bureaus and executive officers have legal authority to make purchases for public purposes. This means waste, since quantities are never very economically calculated; it means dupli-

eration, since the same kind of thing is bought or made at different places for different institutions; it means great difficulty in securing the quality of the article ordered; it means also indefinite opportunities for fraud in both qualities and quantities. The whole system is an invitation to extravagance, to looseness of business methods, and to positive frauds in which public officers are too frequently parties.

Audit.—Various means have been devised for the reform of this notable evil. The first is the use of a complicated accounting system, in which one officer is appointed to check up the accounts of another. Most large offices have by law an official commonly called an auditor, who passes upon bills that are to be paid, and who is in a position to detect obvious errors, such as rendering more than one bill for the same transaction; raising prices above the agreed amount; and false additions or multiplication. On the whole this system strains out the grosser frauds and errors. Sometimes it is carried to preposterous lengths. Under the old Indian service of the United States the accounts were so contorted that a squaw could not draw a paper of pins from the agency store without the words "paper of pins" being written or printed in the accounts of the government twenty-seven times; and yet no department of the government is more subject to frauds in purchases than the Indian service.

Boards of Control.—A reform which is now making rapid headway in the states of the Union, is to bring all the state institutions under one direction commonly called a board of control (*see*), in some states board of affairs. Minnesota, West Virginia and Oklahoma are examples of states in which the system has been worked out. In West Virginia a board of three persons in 1911 took over the duty of boards previously aggregating about 120 people. This central board makes the purchases and keeps the accounts for all the institutions committed to it; thereby a breach is made in one of the chief sources of extravagance, namely the habit of local boards to place their orders only with local business men. However honest boards and purveyors may be, that system tends to higher prices than would be paid in the open markets of the state.

A serious difficulty of the control board system is that it has in several states collided with the state educational board or boards; thus in Minnesota the board of control received authority to decide on the scale of expenditures of the state university, leaving the regents of the university the task of making decisions on the educational question without any power to decide in what direction instruction should expand or contract.

So far, boards of this type have been set up in few municipalities; the finance commission of Boston, which is a part of the city

government, answers much the same purpose through its power to call public attention to irregularities in the city government. Commission governments become substantially one board for the making of purchases.

Uniform Accounts.—Even where the purchasing is not centralized great gains may be made by compelling states or local institutions to submit their accounts in a prescribed and uniform system. By the use of the deadly per capita comparison it is easy to see where one institution is paying a higher price for the same kind of supplies than another. The Federal Government now systematically collects and compares the statistics of American municipalities, so that tax-payers may see for themselves where their city government is wasteful or dishonest.

Competitive Contracts.—The commonest restriction on public purchases is that they shall be made by contract under competitive bids. Many states have specific laws to the effect that state or municipal purchases beyond a certain amount (usually from \$100 to \$500) shall be made only in this manner. These acts are evaded in various ways: (1) by simply ignoring them, which, however, is likely to lead to trouble with the auditor; (2) by allowing favored bidders to know the figures of the other people; (3) by encouraging combinations of bidders each of whom gets the contract in his turn; (4) by buying successive small lots of supplies just under the limit for non-advertised purchases. The principal defect of the contract system is, however, the difficulty of checking up deliveries by samples and of controlling weights and measures. Since purchases are made in so many varied lots, different standards are used; and in the purchase of many supplies such as stationery, textiles, and the commoner food stuffs, the sample or the standard is likely to be ignored.

Efficiency Commissions.—Various state commissions have gone into the question of purchases and accounts in connection with the general financial system of states and cities; but the most searching investigation has been made by the so called "President's Commission on Economy and Efficiency" appointed in 1911 by President Taft. This commission, composed of experts in municipal, territorial and national finance and administration, has made a careful study of the purchasing and accounting methods of the Federal Government with a view to standardizing the supplies, concentrating the purchasing officials, and keeping such records as will enable the government to know where its supplies go and how they are used.

The Future.—The ultimate reform in this field will probably be in all types of American government the designation of a central purchasing authority—commissioner, board or office—through whose hands all orders will pass, and who will make it his business to see that the estimates and requisitions are for

needed supplies; and that the goods are actually delivered in the quantities and qualities ordered; and that they are distributed to those officials who are to use them.

See APPROPRIATIONS, AMERICAN SYSTEM OF; BOARDS OF CONTROL, STATE; BOARDS, STATE EXECUTIVE; COMMITTEE SYSTEM IN THE UNITED STATES; COST OF GOVERNMENT IN THE UNITED STATES; EXPENDITURES, STATE AND LOCAL; EXPERTS IN AMERICAN GOVERNMENT; INSTITUTIONS, STATE ADMINISTRATION OF; INVESTIGATIONS, LEGISLATIVE; PUBLIC ACCOUNTS; PUBLIC PROPERTY; TREASURY DEPARTMENT.

References: Boston Finance Commission, *Annual Report* (1909 to date); Commission on Economy and Efficiency, *Reports* (1912-13); Sec. of Treasury, *Annual Reports* (1789 to date).

ALBERT BUSHNELL HART.

PURE FOOD. Most people regard as pure food all commercial edibles, which are not debased by the addition of chemical preservatives, coloring matter, or objectionable outside ingredients, or are not manufactured out of unfit material. There is considerable confusion between "purity" and "quality." An article of diet may be "pure," yet of a very inferior quality; or on the other hand, it may be high-grade and expensive, yet be adulterated and therefore impure. Food adulteration is as old as trade, but the concentration of what used to be preserving and cooking exclusively by vast commercial corporations has increased the possibilities for fraud; and also makes the sophistication of food a serious menace to the health of millions of people.

Federal Law.—After twenty-five years of effort, public opinion compelled Congress to enact a federal law June 30, 1906, called the Food and Drugs Act. Foods are now held to be adulterated if any non-nutritious substances have been substituted for them; if any valuable constituent of the article has been removed (this is broadly true but must be limited because there are many cases where a valuable constituent is extracted in the preparation of food and no adulteration practiced); if they be mixed, colored, powdered, coated or stained, whereby damage or inferiority is concealed; if they contain any added poisonous or other deleterious ingredients which may render the foods injurious to health; if the food consists of a filthy decomposed or putrid animal or vegetable substance, or of any portion of an animal unfit for food. The use of preservatives by external application is permitted when the directions for their removal are printed on the package.

Violations of the law are made misdemeanors and each offense is punishable by fine or imprisonment or both. Food is held to be misbranded when the container bears any statement that is false or misleading.

The law permits the sale of imitation foods, if manufacturers label them imitations, com-

pounds or blends. The jobber or retailer buys them as "imitations," but unless they are contained in the original packages they are sold to the consumer as real, genuine food.

This Food and Drugs Act affords pretty adequate protection to people intelligent enough to read the labels; but certain manufacturing interests which insist upon artificial preservatives, have struggled ceaselessly to nullify some of the provisions of the law. Its interpretations, too, by bodies outside the U. S. Bureau of Chemistry (and by certain of those within) has tended to combat the spirit of the law itself.

The most radical and far reaching extension of the Food and Drugs Act probably ever made went into effect June 16, 1913, putting domestic meat and meat food products for the first time fully under the provisions of the Food and Drugs Act.

This action was taken by revoking Regulation 39 which specifically exempted meats and meat food products and their producers from the operation of the Food and Drugs Act.

The revocation of Regulation 39 now gives the Department of Agriculture the power to treat meats and meat food products exactly like any other food in interstate commerce. The change, however, in no way interferes with the powers of the Department of Agriculture conducted under the Meat Inspection Law. It simply brings meat under the Food Act, as well as under the Meat Inspection Law, and thus gives the Government control over meat foods, not only in the federally inspected establishments, but after the meat product has left such establishment on an interstate journey.

State and Local Laws.—Any firm, which does not carry on an interstate business may sell impure foods in its own state, without being amenable to the National Food Law. These firms are governed only by state laws and the extent of adulteration will depend upon the character of these statutes and the manner in which they are enforced.

Some cities have "sanitary codes," whose rulings affect hotels, restaurants, and delicatessens. Frequently, however, cheap food combinations are sold in poor districts, exposed to flies, animals and vermin. All such articles might be technically considered as "pure food," so long as not adulterated—yet would form a serious menace to health.

Even the rich who can afford the best products have no knowledge outside their own houses as to the purity of the food they are consuming. Although the law compels certain ingredients to be stated on the label of the original package or container, the food which is taken out of this, and served upon the table in dishes, bears no label, to indicate the presence of chemical preservatives, etc.

Among some of the adulterations are: (1) meats treated with chemical preservatives and artificial colors, sausages, and other prepared

meats adulterated with starch; (2) the mixture of lard with other and cheaper fats; (3) the substitution of cheaper meats for the genuine article in potted chicken, and the sale of diseased, tainted and filthy meat; (4) the canning of an inferior grade of fish, or even a different kind of fish under the name of the better species; (5) the coloring of butter, cheese, canned fruit, jellies, ice cream, tea, cakes and other products with coal tar and other dyes, and misbranding cheese in respect of the country where made, the selling of oleomargarin for butter; (6) the mixture of rye flour, Indian corn flour, wheat flour and other ground cereals for buckwheat; (7) the adulteration of canned corn with saccharin, maize, starch and bleaching agents, and rye flour by the admixture of flours of other cereals; (8) fruit juice is found preserved by means of antiseptics, fruit syrups imitated by synthetic products and jellies artificially flavored and preserved with chemical preservatives; (9) olive oil is adulterated with cotton seed oil, milk with chemical preservatives and water, and peppers and spices with coarsely ground shells and fruit stones; (10) filthy and decayed tomato pulp is used in the making of ketchup; (11) candy is coated and painted with varnish and even soapstone and has been found to contain sulphites, paraffin, gum benzoin, shellac and stearin. A recent

bulletin from the U. S. Department of Agriculture states that analysis has disclosed the presence of considerable arsenic in practically all shellacs used.

The "adulterators," the manufacturers who make their living by putting up foods which are treated with chemical preservatives, etc., oppose all good food legislation, in a systematized and concerted way. The only solution of the problem of securing absolutely pure food for the people, is an educated public demanding government inspection of factories where foods are manufactured, state and city food laws in harmony with the national law, and the strictest health regulations and legislation requiring the use of good sound raw material, and forbidding all harmful ingredients.

See DRUGS, PUBLIC REGULATION OF; HEALTH, PUBLIC. REGULATION OF; MARKETS, REGULATION OF; MEAT INSPECTION.

References: H. C. Wiley, *Foods and Their Adulteration* (1911); C. Baskerville, *Municipal Chemistry* (1911), chs. ii, ix, xi; U. S. Department of Agriculture, *Food Inspections Decisions* (issued from time to time); Rutledge Rutherford, "Child Murder Traffic" in *National Food Magazine*, August, 1911; Committee on Expenditures of House of Rep., *Report*, 62 Cong., 2 Sess., Jan. 22, 1912; *Am. Year Book*, 1910, 405-407, and year by year.

PAUL PIERCE.

Q

QUALIFICATIONS FOR OFFICE. Federal.

The Constitution of the United States states the qualifications for holding each elective office in the general government and further requires that all legislative, executive and judicial officers in the states and nation shall be bound by oath or affirmation to support the Constitution (Art. I, Sec. ii, ¶ 2, Sec. iii, ¶ 3, Art. II, Sec. i, ¶ 2, 5, Art. VI, ¶ 3). The application of any religious test for officeholders under the national government is expressly forbidden. No federal officeholder may be a presidential elector. These are the only general limitations made. Article II of the Constitution declares that "No person except a natural-born citizen, or a citizen of the United States at the time of the adoption of this Constitution shall be eligible to the office of President." nor one who is not thirty-five years of age and for fourteen years a resident within the United States. It also prescribes the oath of office and provides that the Vice-President shall succeed to the office of President when for any cause it becomes vacant. Foreign-born citizens are excluded from this office. Children born to citizens temporarily residing abroad are counted as native-born citizens. Although the Constitution places no restriction on reelection to the presidency the two-term precedent established by Washington has so far (1914) been followed. (For qualifications arising from our party system *see* CANDIDATE; PARTY SYSTEM IN DOUBTFUL STATES; PARTY SYSTEM IN SURE STATES.)

A candidate for the United States Senate must be at least thirty years of age, a citizen of the United States for nine years and a resident in the state from which he is elected. The last provision does not prevent Senators from making their homes in Washington while preserving their legal residence in their states. Representatives meet the same residence requirement, but need be only twenty-five years of age and citizens of seven years' standing. No member of either house of Congress during his term of service may hold any other office under the United States. If a Representative or Senator accepts a federal office, that act vacates his seat in Congress. But if the holder of a federal office is elected to Congress he may continue to serve until he is ready to assume the active duties of the House; then the other office becomes vacant. Members of Congress are disqualified until the end of their term of service in Congress from appointment to offices which, as law-makers, they have

created or the salaries attached to which they have increased.

The Constitution places no limitations as to the choice of justices of the Supreme Court and other federal courts. They are appointed by the President with the approval of the Senate. The President selects his Cabinet without restriction, except that Congress has forbidden anyone interested in import trade to hold the office of Secretary of the Treasury.

The remaining federal offices are filled by appointment, which, save for the general oath of office, is limited only by acts of Congress or by custom (*see* APPOINTMENTS TO OFFICE). Women, minors and aliens may and do hold appointive offices. In connection with foreign legations and consulships citizens of foreign states are often sworn into the service of the United States. Nothing in the Constitution or statutes forbids such a practice. By statute and executive order an increasing number of offices in the civil service (*see*) are being put under the "merit system" (*see*).

State.—The Federal Constitution at first limited the states in respect to office only by the requirement that "all state and local officers shall be bound by oath, or affirmation, to support the Constitution of the United States." The Fourteenth and Fifteenth Amendments (*see*) have made only a slight change in the power of the states over their officers. A state law that in express terms deprived a negro citizen of the right to vote or hold office would be held unconstitutional; but state laws of disqualifying effect have been held valid by federal courts. States, therefore, still have practical control over local and state office.

When the Constitution was adopted, a majority of the states required religious tests for officeholders. The franchise was granted in several New England states only to church members, and in South Carolina (constitution of 1778) only to those who "acknowledged the being of a God and a future state of rewards and punishments." The state constitutions adopted between 1776 and 1800 very generally contained some sort of religious test as a qualification for office. Members of the state legislature should be "Protestants," or "Christians," or, as in Pennsylvania (1790), they should "believe in God and a future state of rewards and punishments," or, as in Delaware (1776), they should "believe in the Trinity and the inspiration of the Scriptures." With the rise of Jeffersonian democracy to power, religious tests gradually disappeared, although

a remnant still survives in eight states. South Carolina, having omitted all religious tests from the constitution of 1865, inserted a clause three years later forbidding anyone to hold the office of governor who "denies the existence of a Supreme Being." This clause is continued in the constitution of 1895. Property qualifications have run a similar course to that of religious tests, going down before the wave of democracy in the early part of the nineteenth century. The required amount of property usually varied with the dignity of the office. In the Massachusetts constitution of 1780, for example, a graded requirement rises from the elector's freehold yielding a rent of £3 to the governor's freehold of £1000. The governor's property in South Carolina at the same date must be £19,000. Property or tax-paying limitations in recent constitutions of certain southern states form a part of the plan to exclude negroes from vote and office.

In requirements as to age, residence and citizenship state constitutions resemble the Federal Constitution with varying details. For governor, the minimum age varies from twenty-five to thirty-five years, thirty years being the prevailing limit; for senator, from twenty-one to thirty-five years; for members of the lower house, ordinarily twenty-one years, in a few instances twenty-five years. Citizenship is almost universally required for holding any state office. A few of the earlier constitutions specified that the governor should be native-born. Illinois (1818) required a citizenship of thirty years; Massachusetts (1817) one of twenty years; Connecticut (1818) is contented with the bare fact of citizenship. Within these limits the variations are numerous. The present requirement as to residence within the state varies from the bare fact of residence to residence for a period of ten years next preceding the election. For members of the legislature ten years of citizenship is now the maximum requirement; five years is ordinary; and several states assign no minimum limit. The rule concerning residence within the state varies from no limit to ten years; within the district it is nearly always one year for both senators and representatives.

These constitutional laws usually apply only to the governor and members of the legislature. Most state constitutions, like the Federal Constitution, fix no limitations for admission to judicial office. But the constitution of California requires members of the Supreme Court to be attorneys with a license to practice before the court. Colorado specifies qualifications of other executive officers along with the governor and requires that the attorney general shall be a lawyer with a license to practice before the supreme court. Oregon requires of the judges citizenship, a three years' residence in the state and residence in the district of their official duties. All these are exceptional provisions. Except in the states

having woman suffrage state constitutions specify "male citizens" as having a right to vote, but most constitutions make no such specification in respect to the holding of office. Consequently women have made good their claim to the right of holding elective offices. This they cannot do where the constitution contains the sweeping provision that all officers chosen by election shall have the qualification of electors in the state.

Quite apart from constitutional provisions state legislatures exercise a wide range of powers over minor offices. Many of the states have elaborate civil service laws. But the most important office subject to regulation by state legislatures is that of teacher in the public schools. Every state prescribes the conditions for entering and following the profession of teaching.

See APPOINTMENTS TO OFFICE; CONGRESS; GOVERNOR; PRESIDENT, POWER AND AUTHORITY OF; PUBLIC OFFICIALS.

References: C. A. Beard, *Am. Government and Politics* (1910), ch. vi; F. N. Thorpe, *Federal and State Constitutions* (1909), *Constitutional Hist. of Am. People* (1898), I, ch. iii, II, ch. xiii; B. Moses, *Government of U. S.* (1906), 64, 73, 153; A. B. Hart, *Actual Government* (1903), 128, 223; F. H. Miller, "Legal Qualifications for Office in America, 1619-1899" in *Am. Hist. Assoc., Annual Report*, 1899, I, 87-154.

JESSE MACY.

QUARANTINE. The word is derived from the Italian *quaranta*, and refers to the forty days' detention customary in Italian ports from mediæval times onward, for vessels suspected to be infected with contagious disease. Quarantine was the earliest and the crudest form of public health work both in this country and elsewhere. It is rapidly becoming supplanted by methods which tend to stamp out the disease at its source, as yellow fever has been stamped out in Cuba. See CONTAGIOUS DISEASES; HEALTH, PUBLIC, REGULATION OF.

R. C. C.

QUASI-PUBLIC CORPORATIONS. *Nature; Definition; Classes.*—Some corporations, although in nature private, are organized for the transaction of kinds of business which, as they directly affect the public, are especially subject to legislative control, or for the management of property especially devoted to a public use, or are authorized to exercise privileges especially for the public benefit, and are therefore said to be quasi-public. The term is inapt for they are not public corporations nor quasi-corporations. They have sometimes more aptly been called public service corporations. The public nature of their subject matter may consist in the fact that they are authorized to exercise the power of eminent domain (*see*); or to transact for the profit of

their members business which the state might under its own authority, or through its municipal corporations, transact directly for the public benefit; or to devote property to general public uses (*see* PUBLIC USE) although for their own profit; or to engage in forms of business which have been generally regarded as peculiarly subject to legislative regulation. These classes are not exclusive nor exhaustive but descriptive only, as furnishing one or more grounds on which such corporations have been subjected to various forms of public regulation (*see* GRANGER CASES; *MUNN VS. ILLINOIS*). Within the description of this title have been included companies authorized to construct and operate turnpikes, bridges, ferries, railroads, street and interurban railways, telegraph and telephone lines, electric light and power plants, gas and water plants, heating plants, grist mills, grain elevators, etc.; also private corporations authorized to construct public improvements, such as irrigation or drainage ditches and levees, and companies authorized to improve the navigation of streams.

Regulation of Business and Rates.—Although the charters or franchises granted to public service corporations are contracts which can not be impaired by legislation unless the right has been reserved at the time of their creation or grant (*see* CHARLES RIVER BRIDGE VS. WARREN BRIDGE; DARTMOUTH COLLEGE CASE), nevertheless the nature of the business justifies such regulation and control as might be exercised with reference to like forms of business conducted by private individuals. Such power of regulation and control involves the imposition of conditions on which private property may be taken under the power of eminent domain, and public property such as highways and streets may be used; the regulation of rates which may be charged; and requirements for service to all without unreasonable discrimination. In the regulation of rates, legislative power must not be so exercised as to deprive the corporation of a fair return upon the reasonable value of the property used, or a fair compensation for the services rendered; for to deny to a private corporation a just compensation for its services or for the use of its property would be to deprive it of its property without due process of law in violation of constitutional provisions.

See BUSINESS, GOVERNMENT RESTRICTION OF; CORPORATIONS, BUREAU OF; DUE PROCESS OF LAW; FRANCHISES, CORPORATION; MONOPOLIES; PUBLIC SERVICE CORPORATIONS; PUBLIC UTILITIES; RAILROAD COMMISSIONS, STATE.

EMLIN McCLAIN.

QUAY, MATTHEW STANLEY. Matthew S. Quay (1833-1904) was born at Dillsburg, Pa., September 30, 1833. He was admitted to the bar in 1854, and in 1856 and 1859 was elected prothonotary of Beaver county. He served in the Union army during the Civil

War, receiving a congressional medal of honor. From 1865 to 1867 he was a member of the Pennsylvania legislature, secretary of the commonwealth from 1872 to 1878 and 1879 to 1882, and in 1885 state treasurer. By this time he had become the Republican boss of Pennsylvania, was elected United States Senator in 1887, and in 1888 was chosen chairman of the Republican national committee. His use of money in the campaign, in part, it was alleged, for corrupt purposes, was severely criticized; and he was further believed "to have bound Harrison hard and fast in the dispensing of patronage." Harrison freed himself in the course of his administration, and Quay opposed his renomination in 1892. In 1894 he confessed to having speculated in sugar stock, anticipating a rise through the enactment of the Gorman-Wilson tariff (*see* WILSON-GORMAN TARIFF). In 1899 he was tried for misappropriation of state funds, and acquitted; the same day he was appointed United States Senator *ad interim*, and in 1901 was reelected. He died at Beaver, Pa., May 28, 1904. *See* BOSS AND BOSS SYSTEM IN PARTY ORGANIZATION; PARTY ORGANIZATION IN PENNSYLVANIA; REPUBLICAN PARTY. **References:** *Appleton's Annual Cyclopaedia* (1887-1901); H. T. Peek, *Twenty Years of the Republic* (1906). W. MacD.

QUEBEC. History.—Quebec is the largest of the nine provinces of Canada, with an area of over 350,000 square miles. It comprises the territory lying northward of the Ottawa and St. Lawrence rivers, together with some smaller areas on the south side of these two streams. The population of the province at the last official census (1911) was 2,002,712. The history of Quebec as a British province begins with the capitulation of Montreal, September 8, 1760, when the civil government of New France was replaced by a temporary system of military rule by the British conquerors. After the Treaty of Paris (1763) George III issued a royal proclamation establishing a civil administration consisting of a governor appointed by the Crown and a legislative council similarly appointed. Quebec was therefore governed as a crown colony until 1774. In 1774 the British Parliament passed the Quebec Act (14 Geo. III, c. 83) which greatly extended the boundaries of the province, reestablished the old French system of law, and removed existing religious disabilities. It did not, however, establish representative government, but left the civil administration in the hands of the governor and council as before (*see* QUEBEC ACT). Under these arrangements the province passed through the turmoils accompanying the American Revolution including the invasions of 1775-76.

After the close of the Revolutionary War there was a large immigration of Tories from the seaboard states, especially from New Eng-

land and New York. Many of these came northward by way of Lake Champlain and Richelieu River, and took up lands in the territories south of the St. Lawrence, or the "Eastern Townships" as they were subsequently called. A larger number, however, went to the regions on the north shore of Lake Ontario, or to the Niagara peninsula. This influx of settlers had two important political results: (1) it accentuated the growing demand for a system of representative government; (2) it gave rise to a movement for the separation of Quebec into two provinces, one of which should contain the bulk of the newly-arrived Loyalists. Accordingly, in 1791, the Imperial Parliament passed an enactment commonly known as the Constitutional Act (31 Geo. III. c. 31).

By the provisions of the Constitutional Act the territory formerly included within the province of Quebec was divided into two provinces to be known as Upper and Lower Canada. Each province was given a civil administration consisting of a governor, appointed by the Crown, a legislative council similarly appointed, and an elective assembly. In Upper Canada the legislative council was to have not less than seven members, and an assembly of not less than sixteen. In Lower Canada the council was not to be less than fifteen, and the assembly not less than fifty members.

In their actual workings the provisions of the Constitutional Act did not prove satisfactory. The governor and the legislative council, in both provinces, came into frequent and sometimes bitter conflict with the assembly, so that the political annals of Upper and Lower Canada during the ensuing forty years form little more than a record of persistent strife over the question of executive responsibility. After 1830 matters culminated in the refusal of the assembly to vote appropriations, and in 1837 rebellions broke out in both provinces. These were quelled with some difficulty, and Lord Durham was sent out to Canada in 1838 to investigate and report upon the true causes of colonial discontent. As a result of the recommendations contained in his famous report, Parliament in 1840 passed an act for the reunion of the two provinces.

The Union Act of 1840 (3 & 4 Vict. c. 35) in addition to providing for the consolidation of Upper and Lower Canada into the single province of Canada, changed the structure of government so that it henceforth consisted of a governor, an appointive executive council or ministry, an appointive legislative council of not less than twenty members, and an elective assembly of eighty-four (*see RESPONSIBLE GOVERNMENT IN CANADA*). This system was continued until 1867 when, under the provisions of the Confederation Act the province of Canada was again divided into the two provinces of Ontario and Quebec.

Government.—Quebec accordingly became one of the original provinces of the Dominion; it

has its own provincial constitution, and its own provincial government. This consists of a lieutenant governor, appointed for a five-year term by the governor general of the Dominion; a small executive council or ministry, named by the lieutenant governor but responsible to the assembly; a legislative council of twenty-four members appointed for life by the lieutenant governor on the advice of his ministry and an elective assembly of seventy-four members. The province is represented in the federal parliament by twenty-four senators and sixty-five members of the house of commons. The province has a code of civil law based largely upon the old French system; but the English system of criminal law prevails. The public schools of the province are under sectarian control; but a system of separate schools is provided for non-Catholics. The provincial capital is at Quebec; but Montreal is the commercial metropolis.

See CANADA; CANADIAN PROVINCES.

References: F. X. Garneau, *Histoire du Canada* (1882–1883); Robert Christie, *Hist. of the Province of Lower Canada* (1866); J. A. Chap-
eau, *The Constitution and Government of Canada* (1894); J. C. Hopkins, *The Canadian Annual Review of Public Affairs*; G. M. Morang, *The Annual Register of Canadian Affairs*.

WILLIAM BENNETT MUNRO.

QUEBEC ACT. According to the Declaration of Independence, the Quebec act was designed "for abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries so as to render it an example and fit instrument for introducing the same absolute rule into these colonies." More accurately, it was the result of a policy naturally evolved by careful attempts to solve the problem of governing the territory ceded by France in 1763. It sanctioned English criminal law with jury trial; retained French law in civil suits; practically established the Roman Catholic religion; set up a highly centralized government; reserved to Parliament a power of taxation except for local purposes; vested all other legislative authority in a crown-appointed council, subject to royal veto. From considerations of policy relating to Indians and the fur trade, it extended the boundaries of Quebec to include the future Northwest Territory, which, although still vaguely claimed by Virginia under the extinct charter of 1609, was considered outside the jurisdiction of the coast colonies after the royal proclamation of 1763. **See BOUNDARIES OF THE UNITED STATES; COLONIZATION BY GREAT BRITAIN IN AMERICA; QUEBEC.** **References:** Victor Coffin, "Quebec Act and Am. Revolution" in *Am. Hist. Assoc. Report*, 1894, 273–79; G. E. Howard, *Preliminaries of the Revolution* (1905), 276–79; *Am. Hist. Rev.*, I (1896), 436–442.

J. M. CALLAHAN.

QUESTIONS IN PARLIAMENT. Questions may be asked by any member in either House of Parliament. They are usually addressed to a minister, but may be put to the speaker on a point of order or to a private member regarding business for which he is personally responsible. The practice is nearly two centuries old and has been regular for some fifty years. The procedure in the Lords is more elastic and informal than in the Commons but not essentially dissimilar. Questions in the Commons, unless of an urgent character, are written out, handed to the clerk and printed in the notice paper. When time for questions arrives the speaker puts them successively by number. If an oral answer is desired, the member must mark his question with an asterisk. A question not so marked, or not reached, or for which the member putting it does not rise when called, is answered in the published *Notes and Proceedings* of the following day. Questions may contain no arguments, epithets or statements of opinion and no recitals of fact except those necessary to clearness. Their object is information. The motive of the questioner varies. It may be to get information, to secure notoriety, to air a grievance, to embarrass the ministry, or even to give a minister a chance to make an effective statement.

The privilege, though often abused, is a constant encouragement to publicity. Ministers may decline to answer, but a refusal, without obvious reason assigned, usually leaves a bad impression. This publicity, moreover, is secured without the constant risk to the ministry involved in interpellations (*see*) in continental chambers. Supplementary questions may be asked within narrow limits, but answers are followed by neither debate nor vote.

See CABINET GOVERNMENT; EXECUTIVE SYSTEM OF GREAT BRITAIN; HOUSE OF COMMONS; LEGISLATION, BRITISH SYSTEM OF; PARLIAMENT.

References: A. L. Lowell, *The Government of England* (rev. ed., 1908), I, 331-333; J. Redlich, *The Procedure of the House of Commons* (1908), II, 241-243.

HENRY A. YEOMANS.

QUIDS. The Quids were the John Randolph (*see*) men, opposed to Jefferson and Madison. They formed the first "third party" in the United States. Randolph claimed that his were the Republican principles of 1798, and that Jefferson and Madison had departed from them. The Quids opposed the Yazoo land frauds, the West Florida (*see*) affairs, the purchase and government of the Louisiana territory, the embargo policy, and the "back stairs" influence of Jefferson on Congress. They favored Monroe to succeed Jefferson, and opposed Madison. They did not become a strong factor nor influence developments very much. See DEMOCRATIC PARTY. References:

J. A. Woodburn, *Pol. Parties and Party Problems* (1909), 136; E. Channing, *Jeffersonian System* (1907), ch. x; H. Adams, *John Randolph* (1887), *passim*.
T. N. H.

QUINCY, JOSIAH. Josiah Quincy (1772-1864) was born at Boston, February 4, 1772. In 1793 he was admitted to the bar. In 1800 he was the Federalist candidate for Congress, but was defeated. He was elected in 1804, however, and held his seat until 1812, when he declined a reelection. He was a member of the Federalist "Essex Junto" (*see*), and was bitter in his opposition to the embargo and the War of 1812. In 1811 he declared in the House his "deliberate opinion" that the admission of Louisiana as a state would be a virtual dissolution of the Union; and that it would be the right and duty of the states "to prepare definitely for a separation—amicably, if they can; violently, if they must." This was the first enunciation in Congress of the doctrine of secession. From 1814 to 1820 he was a member of the Massachusetts senate, a member of the state constitutional convention in 1820, and in 1821 speaker of the house. In 1823 he became first mayor of Boston, declining reelection in 1828. From 1829 to 1845 he was president of Harvard College. He died at Quincy, Mass., July 1, 1864. He wrote a *History of Harvard University* (2 vols., 1840); *Municipal History of Boston* (1852); and *Memoir of J. Q. Adams* (1858).

See FEDERALIST PARTY; SECESSION CONTROVERSY.

References: E. Quincy, *Life of Josiah Quincy* (1867); Josiah Quincy, *Speeches delivered in the Cong. of the U. S.* (1874).

W. MacD.

QUIT RENT. The established rents of freeholders and copyholders of a manor, so called because the tenant went free of any other services. It was a service to the king or lord. No rent of this sort can exist in the United States, but the term is sometimes loosely applied to other forms of rent. It was, however, common in the colonies. References: W. Blackstone, *Commentaries* (1765), II, 42; W. S. Holdsworth, *Hist of English Law* (1909), III, 125.
H. M. B.

QUORUM. In all legislative bodies a certain specified number of members, called a quorum, must be present for the transaction of business. In the United States and in some of the countries of Europe, this number is prescribed by the constitution, elsewhere it is fixed by statute or the rules of procedure. In the British Parliament, the presence of three members constitutes a quorum in the House of Lords and 40 in the House of Commons. The Constitution of the United States and those of most of the states declare that a majority of the elected members to each house

QUO WARRANTO

shall constitute a quorum therein (Const., Art. I, Sec. v, ¶ 1). In a few, however, the number required is two-thirds. The constitution of New Hampshire provides that not less than seven members of the senate shall make a quorum. That of Massachusetts likewise provides that not less than 16 members of the senate and 60 members of the house shall constitute a quorum. It is generally provided that a smaller number than a quorum may adjourn from day to day and compel the attendance of absent members.

In the House of Representatives at Washington the practice was long continued of noting only the members voting and thus by refusing to vote members might break a quorum. In 1890, Speaker Reed "directed the Clerk to enter on the journal as part of the record of a yea and nay vote names of members present and not voting." . . . At the time of the establishment of this principle the Speaker revived the count by the chair as a method of determining the presence of a quorum

at a time when no record vote was ordered (Hinds).

See DIVISIONS; REED, THOMAS B.; VOTING IN LEGISLATIVE BODIES.

Reference: A. C. Hinds, *House Manual* (1909), § 54.
J. W. G.

QUO WARRANTO. This ancient writ was a prerogative writ of the Crown, against one who usurped or claimed any office, franchise or liberty of the Crown, demanding by what right he supported his claim. In modern practice it has been supplanted by an "information in the nature of quo warranto," criminal in form, presented to the court by the public prosecutor, for the purpose of correcting the usurpation, misuser, or nonuser of a public office or corporate franchise. Reference: J. L. High, *Extraordinary Legal Remedies* (3d ed., 1896), 544-546.
H. M. B.

R

RACE ELEMENTS. The United States is that country of the world in which there is the greatest variety of race elements, most of them settled in juxtaposition to each other and put on an equal political footing. An obvious classification of these race elements is as follows: (1) the native race, or rather races, since there are several definite Indian stocks within the present area of the United States; (2) the African race, including a small Arab element, all descended from African ancestors, most of whom arrived here between 1700 and 1775; (3) the European races, nearly all the race stocks of Europe having large representations, especially the Anglo-Saxon, German, Italian, Hebrew, Hungarian and various Slav races, with smaller numbers of Greeks, Portuguese, Russians and Turks; (4) Asiatic races, of which only two, the Chinese and Japanese have a numerous representation. See **ABORIGINES; CENSUS; FOREIGN ELEMENTS IN THE UNITED STATES; NATIVE AMERICAN RACE; NEGRO PROBLEM; POPULATION OF THE UNITED STATES.** References: A. M. Low, *American People* (1909); C. D. Wright, *Outline of Practical Sociology* (rev. ed., 1909), ch. iv; J. R. Commons, *Races and Immigrants in Am.* (1907); C. A. Hanna, *Scotch-Irish* (1902); A. B. Faust, *German Elements* (1909); E. G. Balch, *Our Slavic Fellow Citizens* (1910); C. S. Bernheimer, *Russian Jew in U. S.* (1905); Eliot Lord, *Italian in Am.* (1905); L. J. Fossdick, *French Blood* (1906); bibliography in A. B. C. Griffin, *Bibliography on Immigration* (1907).
A. B. H.

RACE-TRACK GAMBLING. Special efforts have been made to prohibit race-track gambling because of the vast number of persons who take part in the betting on the outcomes of races held on race-tracks, a form of betting not prohibited by the usual anti-gambling laws unless so specified, and a means of petty gambling that has worked great havoc among people of small means. Vast sums of money have been invested in race-tracks and horse breeding, supposed to be dependent upon the bookmakers' large profits. Agricultural societies and the farmer interest were generally persuaded that it was necessary to permit this form of gambling. Eleven states (Ariz., Colo., Ga., N. H., N. Mex., Okla., Ore., S. C., Utah, W. Va., Wy.) have no legislation bearing on race-track gambling. Eight states (Fla., Ill., Kans., Ky., Md., N. D., Vt., Va.) permit it in licensed places; the remaining 27 states prohibit it

unconditionally. In North Carolina it is restricted to certain counties and in Montana, prohibited on Sundays.

The tenacity of the gambling interests is best illustrated in the enactment of prohibitive legislation in New Jersey and New York. In New York as early as 1802 a bill was passed limiting racing to certain periods, and to courses owned by recognized racing associations. The Ives Law (1887) allowed horse racing for thirty days each year on tracks controlled by the racing association, and required five per cent of the gate receipts to be paid to the state treasury for prizes to the state agricultural societies to encourage the breeding of horses. The state constitution (1894) provided that "no lottery or sale of lottery tickets, pool selling, bookmaking or any other kind of gambling shall hereafter be authorized or allowed within the state," and required the legislature to pass appropriate laws accordingly. Amendments to the Penal Code (1895) and the Percy-Gray Law (1895, ch. 570) failed to do this, and left ways open for the violation of the constitutional provision. Governor Hughes called attention to the necessity for obeying the constitutional mandate; and after two years hard campaigning secured the enactment of the Agnew-Hart bills (1908) which appropriated state money outright for the encouragement of the agricultural societies, and amended the penal code, making the penalty for race-track gambling imprisonment without the option of a fine. At first a way for the bookmaker to evade this law was found and attempts were made in 1909 to again go back to special exemption for race-track gambling; but on June 15, 1910, as the result of further efforts on the part of Governor Hughes supplementary legislation was enacted which made bookmaking impossible and held the directors of corporations or racing associations, like individuals, liable for the presence of gambling in rooms, sheds, tents, tenements, booths, buildings, floats or vessels, or any other enclosure or place, and also did not make written record necessary for the conviction of the bookmaker.

See **GAMBLING; POLICE POWER; PUBLIC MORALS, CARE FOR.**

References: The New York City Federation of Churches published (May, 1909) a full account of the anti-race-track gambling campaign in N. Y.; L. Scott, "Horse Racing and the Public" in *World's Work*, XII, Aug., 1906.
H. W. NEW

RADICAL PARTY. A name sometimes given to the Republican party especially soon after the Civil War, and, while often applied generally to the whole party by its opponents, more commonly applicable to the extreme element and its leaders in determined opposition to the policy and acts of President Johnson. See RADS; RECONSTRUCTION; REPUBLICAN PARTY. Reference: Gideon Welles, *Diary* (1911), II, *passim*. A. C. McL.

RADIO-TELEGRAPHY. The scientific name for wireless telegraphy (*see*). A. B. H.

RADS. A term of contempt applied by the Democrats, especially in the South, to the members of the Republican party during the reconstruction days, particularly to those leaders in Congress who formulated the reconstruction policy. It is an abbreviation of Radicals. See RADICAL PARTY; RECONSTRUCTION. O. C. H.

RAG BABY. A pictorial invention, the creation of the caricaturist Thomas Nast, published in *Harpers' Weekly*, September 4, 1876, and much used by political speakers in the campaign of that year to personify greenback currency. See GREENBACK PARTY; PAPER MONEY. O. C. H.

RAG CURRENCY. A derisive term applied to paper money especially in the period of the Greenback agitation, 1866-84; but the use of the term rags for paper money appears as early as 1840 in a political song:

"The banks are all clean broke,
Their rags are good for naught."

See GREENBACK PARTY; PAPER MONEY. O. C. H.

RAILROAD ACCIDENTS. See ACCIDENTS, RAILROAD AND STEAMSHIP.

RAILROAD ACCOUNTS, UNIFORMITY OF. See UNIFORMITY OF RAILROAD ACCOUNTS.

RAILROAD ASSOCIATIONS. As soon as railroads were established in the United States, some provision had to be made for rates and accounts relating to the passing of travel and

freight from one railroad to another; and these relations gradually developed into railway clearing houses, a great part of which were consolidated into one trunk line clearing house in 1877. As competition developed among the railroads, and a system of through sleeping cars and through tickets was worked out, agreements, understandings and meetings became necessary to adjust the details and to fix rates so that they would be approximately equal on all lines between competing points. The next step was the formation of local pools, subsequently developing into a large pool on all traffic between Chicago and other western basing points and the Atlantic coast. This pool assigned to each road a fixed proportion of the tonnage and diverted freight to make those assignments good. The practice irritated shippers and was the means of maintaining rates; and therefore in the Interstate Commerce Act of 1887, it was forbidden.

The railroads, however, continued to act through associations, which adjusted passenger and freight rates for large sections of the country. Since about 1900, the Interstate Commerce Commission has assumed authority over the results of such deliberations. In addition to these associations, the largest body of which is the American Railway Association, there are great systems having common ownership, which of late have developed in the far West into the Hill roads and the Harriman roads, each made up of units held together by a community of interest, if not by stock ownership. The four or five great express companies of the country are practically an association through mutual ownership of each other's stock. In 1912 and 1913 the administration in Washington compelled the separation of the Harriman system by reversing the union of the Union Pacific and the Southern Pacific.

See INTERSTATE COMMERCE DECISIONS; INTERSTATE COMMERCE LEGISLATION; MERGER OF RAILROADS; POOLING IN RAILROADS; RAILROAD COMMISSIONS, STATE; TRANSPORTATION, REGULATION OF.

References: F. Hendrick, *Railway Control by Commission* (1900), ch. viii; D. C. Knowlton, "Bibliography of Transportation" in *Teachers' Mag.*, IV, Oct., 1913, 232-235.

A. B. H.

RAILROAD CAPITALIZATION

Capitalization Statistics.—For the year ending June 30, 1911, railways in the United States with a single track mileage of 234,717 miles, reported to the Interstate Commerce Commission a capitalization of \$19,208,935,081, made up of \$10,738,217,470 of funded debt and \$8,470,717,611 of stock, or \$41,489 of

bonds and \$36,089 of stock per mile of line. These figures were gross. In order to arrive at the volume of securities in the hands of the public, it is necessary to deduct inter-railway holdings of stocks and bonds, amounting to \$4,164,452,187; and in order to ascertain the securities resting solely upon the rail-

way system, \$35,775,324 must be further deducted as assigned to other than railway properties. This leaves a net capitalization of \$15,908,707,570, or \$63,944 per mile of line. The figure thus arrived at is 43 per cent. of the value which the Census placed on the farm lands and buildings of the country in 1910; it exceeds by 36 per cent the total liabilities of the national banks in the United States on September 4, 1912; and it is greater than the value of the products of all our mines in 1912 capitalized at 12 per cent.

The statistics of gross capitalization since 1900 are given for convenience in the following table. Figures for switching and terminal companies are excluded in 1908 and following years.

Year	Stock	Funded Debt	Total
1912 ---	\$8,469,560,687	\$11,064,190,115	\$19,533,750,802
1911 ---	8,470,717,611	10,738,217,470	19,208,937,081
1910 ---	8,113,657,380	10,303,474,858	18,417,132,238
1909 ---	7,686,278,545	9,801,590,350	17,487,868,935
1908 ---	7,373,212,323	9,394,332,504	16,767,544,827
1907 ---	7,356,861,691	8,725,284,992	16,082,146,683
1906 ---	6,803,760,093	7,766,661,385	14,570,421,478
1905 ---	6,554,557,051	7,250,701,070	13,805,258,121
1904 ---	6,339,899,329	6,873,225,350	13,213,124,679
1903 ---	6,155,559,032	6,444,431,226	12,599,990,258
1902 ---	6,024,201,295	6,109,981,669	12,134,182,964
1901 ---	5,896,566,204	5,881,580,887	11,688,147,091
1900 ---	5,845,579,593	5,645,455,367	11,491,034,960

In 1911 and 1912 the capitalization of railroads reporting to the Interstate Commerce Commission was classified as follows:

Classes of Securities	1911	1912
Common stock -----	\$7,074,917,501	\$6,882,813,008
Preferred stock -----	1,395,800,052	1,586,747,679
Mortgage bonds -----	7,825,269,102	8,019,700,886
Collateral trust bonds -----	1,183,766,188	1,279,128,266
Plain bonds, debentures and notes --	951,377,816	1,067,567,350
Income bonds -----	261,777,220	263,441,054
Miscellaneous obligations -----	195,430,395	116,170,300
Equipment trust obligations -----	319,596,749	318,182,259
Total capital -----	19,208,935,081	19,533,750,802

The large amount of collateral bonds was mainly due to the extensive holdings of each other's securities which American railroads have acquired in the past few years in the course of their consolidation into a relatively small number of great systems. More than half of the obligations listed as "plain bonds, debentures, and notes" consisted of short time notes, payable in from one to three years from date of issue, and bearing a high rate of interest. These securities were sold freely in 1907 and 1908 in order to avoid placing long time bonds in an unfavorable market. The great bulk of outstanding bonds were in 1909, as we should expect, of the regular mortgage variety; the holders of 70 per cent of them receiving an interest of from four to six per cent. Income bonds, equipment trusts, and miscellaneous together made up less than one-tenth of the total.

Securities per Mile.—A cursory examination of official figures shows that the amount of securities per mile of line varies widely in different countries and even in different parts of the United States. There were no less than \$423,705 of stocks and bonds per mile outstanding upon the eastern section of the New York Central in 1909, and \$326,672 upon the Pennsylvania. The average capitalization of railways per mile in England was \$328,761 in 1909. The book cost of German state railways the same year was \$115,989 per mile, and of railways in France it was \$136,850 per mile in 1908. On the other hand, the capitalization per mile of the Chicago, Burlington & Quincy west of the Missouri River was \$35,680 in 1909 and that of the Chicago, Rock Island & Pacific in the same territory \$47,614.

Capitalization and Cash Investment.—Three standards have been held up with which the volume of railroad capitalization has been compared. The first is the amount of cash invested in the property upon which the capitalization rests; the second is the cost of reproducing that property; and the third is the capitalized value of the earnings.

It is very certain that in the history of American railroads capitalization and investment have been far apart. In the twenty-one years from the beginning of 1875 to the end of 1895, railroads to the extent of 107,264 miles were built in the United States. At an estimated cost of \$30,000 a mile the total expenditure for construction would have been \$3,217,920,000, to which should perhaps be added \$500,000,000 for equipment. During this period, however, the stock outstanding increased by \$3,191,124,513 and the funded debt by \$3,571,708,675.

Between 1895 and 1900 the increase in securities outstanding was slight because of the depressed business conditions of the time. The following seven years witnessed the construction of some 25,000 miles of line, and an increase in securities of \$4,591,111,723. There is little doubt but that in the earlier period the securities issued were vastly in excess of the capital invested in railroad building. Poor's Manual, the best unofficial source of railway securities for this country, estimated in 1900 that \$1,850,000,000 of the stock outstanding in 1899 represented no cash paid in. It is contended by railroad men that heavy reinvestment in railroad properties from earnings in later years has offset the policy of inflation pursued to 1899, but inasmuch as this net increases in railroad capitalization between 1900 and 1907 amounted to \$84,696 per mile of new construction, there is ground for questioning the truth of the assertion.

Capitalization and Cost of Reproduction.—The relation of cost of reproduction of capitalization is more difficult to ascertain. The best evidence that we have is the result of half a dozen state railroad valuations made during

RAILROAD CAPITALIZATION

the last few years. The results are given in the following table:

PRINCIPLES OF; TRANSPORTATION, REGULATION OF.

State	Physical Value				Capitalization	
	Cost of Reproduction		Cost of Reproduction less Depreciation			
	Total	Per Mile	Total	Per Mile	Total	Per Mile
Washington, 1905 -----	\$194,057,240	\$64,343	\$175,797,025	\$58,288	\$168,696,670	\$53,267
South Dakota, 1908 -----	106,494,503	26,933	91,695,132	23,190	138,850,297	35,116
Michigan, 1900 -----	202,716,262	25,946	166,398,156	21,298	291,605,232	37,323
Minnesota, 1907 :						
Estimate A -----	411,735,195	54,201	360,480,160	47,454	300,027,696	39,496
Wisconsin, 1909 -----	296,803,322	41,811	240,718,711	33,910	311,819,128	44,167
Texas, 1896 -----	212,794,586	17,198	-----	-----	420,031,677	31,910

In two states the physical value and cost of reproduction at the time of valuation was less than the outstanding capitalization. In four the capitalization was superior. Omitting Texas, where the estimates were in the main made during the exceptional years of 1894-1896, the total capitalization of the railroads in five states appears to have been \$1,210,999,023; the cost of reproduction new, \$1,211,806,522 and the physical value with allowance for depreciation, \$1,035,089,184.

Capitalization and Earnings.—If, finally, we compare the earnings of American railroads with their capitalization, we find that in 1909 dividends at an average rate of 6.53 per cent were paid upon 64.01 per cent of the stock and interest at 3 per cent or better on 92.18 per cent of the funded debt. During the last decade carriers have paid on the average 6 per cent on nearly 60 per cent of their stock, and interest at 3 per cent or over on 91 per cent of their funded debt. Just what these figures mean is hard to say, in view of the fact that only about 80 per cent of outstanding railway securities are in the hands of the public, the rest being held by railroad companies between themselves. It may be said, however, that the financial condition of American railroads has steadily improved since 1897, and that in 1904 a valuation made by the Bureau of the Census and based on earnings placed their value at \$52,600 a mile at a time when the capitalization in the hands of the public was \$52,099.

The conclusion to which we come is, therefore, that the volume of railroad securities in the United States corresponds exactly to neither of the three standards mentioned—the excess being greatest when the capitalization is compared with cash invested, and least when compared with an estimated value based on earnings. This fact is one reason advanced in support of proposals for more complete railroad regulations.

See CORPORATION CHARTERS; INTERSTATE COMMERCE COMMISSION; INTERSTATE COMMERCE LEGISLATION; PUBLICITY OF CORPORATE ACCOUNTS; PUBLIC SERVICE CORPORATIONS; RAILROAD COMMISSIONS, STATE; RAILROAD MANAGEMENT; TRANSPORTATION, ECONOMIC

References: Interstate Commerce Commission, *Statistics of Railways* (1888 to date), *Intercompany Relationships of Railways in the United States* (1908); *Poor's Manual* (1868-9 to date, esp. 1900); T. L. Greene, *Corporation Finance* (3d ed., 1901), also in *Political Science Quarterly*, I (1891), 474-492; A. T. Hadley, *Railroad Transportation* (1903), ch. iii; E. R. Johnson, *American Railway Transportation* (2d ed., 1908), ch. vii; W. M. Acworth, *Elements of Railway Economics* (1905), ch. ii; W. Z. Ripley, in *Quart. Jour. Econ.*, XV (1900), 106-137, XXV (1911), 185-215, in *Pol. Sci. Quart.*, XXII (1907), 577-610, XXVI, (1911), 98-121, in *Railway Age Gazette*, XLIX, 732-734, 778-782; A. W. Spencer, in *Journal Pol. Econ.*, XIV (1906), 542-552, Bureau of Railway Economics, *Comparative Statement of Physical Valuation and Capitalization* (1911); S. O. Dunn, in *Journal Pol. Econ.*, XVII (1909), 189-205; H. C. Adams, in *Am. Economic Assoc. Quart.*, 3d Series, XI (1910), 184-195; W. H. Williams, in *ibid.*, 196-238; M. Rollins, *Money and Investments* (1907), *Convertible Securities* (1909); J. Moody, *Analyses of Railroad Investments* (1909); C. Snyder, *American Railways as Investments* (1907); F. W. Mundy, *Earning Power of Railroads* (1906), 11-41; T. F. Woodlock, *Anatomy of a Railroad Report* (1909); A. D. Noyes, in *Atlantic*, XCVIII (1906), 532-541; J. Singer, *Die amerikanischen Bahnen* (1909), chs. vi, vii, viii; J. Swann, *An Investor's Notes on American Railroads* (1886); A. v. d. Leyen, *Finanz-und Verkehrspolitik der Nord-amerikanischen Eisenbahnen* (1895); S. F. Van Oss, *American Railroads as Investments* (1893); W. J. Stevens, *Investment and Speculation in British Railways* (1902), 1-77; F. Lownhaupt, *Investment Bonds* (1908); T. W. Mitchell in *Quart. Journal Econ.*, XX (1906), 443-467; A. S. Dewing, in *ibid.*, XXX (1911), 396-406; S. Daggett, *Railroad Reorganization* (1908); H. H. Swann, *Economic Aspects of Railroad Receiverships* (1898); E. S. Mead, in *Acad. of Pol. Sci., Annals*, XVII (1901); C. F. and H. Adams, *Chapters of Erie* (1871); J. P. Davis, *Hist. of the Union Pacific Railroad* (1894).

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RAILROAD COMMISSIONS, STATE. State railroad commissions in their modern form date from the seventies and eighties, when the attempt at stringent legislative control of the railroads in the Middle West, due to the Granger movement (*see*), proving unsatisfactory, resort was had to hortatory or administrative commissions. The commission as an authority having general supervisory powers over railroads, together with certain special powers, had existed long prior to 1870, however. Rhode Island, for instance, had a commission as early as 1839. All but four of the states now have railroad commissions. The increase both in the total number and in the number of the more vigorous type, has been very rapid in the past few years. While the net increase in commissions from 1890 to 1902 was only from 28 to 30, in the period 1902 to 1908 it was from 30 to 40, and four more states established commissions between 1908 and 1914. Much the greater number of the new commissions are of the "mandatory" type.

State commissions consist of from two to five members. New York has two "public service" commissions of five members each. The favorite number of members is three, and the single commissioner system, at one time common, is now almost obsolete. In 1890 choice by the governor, in 1902 and 1913 election by the people, was the most common method of obtaining the commissioners. The term of office is from two to six years, with a marked tendency toward the longer terms. The salaries of the commissioners range from \$1,000 to \$15,000; \$2,000 to \$5,000 is the amount usually paid. As a rule no qualification of railroad or professional experience is required for these positions, though recently a slight tendency away from this condition of affairs is traceable.

The powers of the commissions vary greatly. Their jurisdiction is of minor importance, as

it is limited to intrastate commerce; and is threatened with even further limitation by the contra-action of the federal courts. The House of Governors at their meeting of September, 1911, took extraordinary measures to check this tendency, creating a committee of their own number to appear before the Supreme Court in appeals then pending, and there to argue for the maintenance of state powers. Authority over conditions of business administration, such as the requirement of uniform systems of accounting, are common; and almost all the commissions have important powers over the physical operations and maintenance of the roads. The rate making or regulating power is most important. Prior to 1871, there was no commission having such power; in 1913 more than three-fourths of them had it. Such commissions are usually known as "mandatory" or "strong" commissions. To appreciate the position of the commissions of the present time several tendencies must be particularly observed. These are the tendency to increase the commissions' powers over rates; to make them more independent of the judiciary; to extend their authority over practically all transportation agencies; and, in most instances, to give them, as public service commissions, power over public service utilities that are purely local in character. There is a growing belief that the increasing powers of these bodies, whatever their legal definition shall ultimately prove to be, will, in the main, be upheld as constitutional.

The title of less than half of these bodies is railroad commission or board of railroad commissioners. Most of them are public service commissions; a few states have corporation commissions. The states with public service commissions number 22. Those having corporation commissions are four in number. The following table shows the railroad commissions now in existence (1914):

Advisory Powers	Mandatory Powers over Railroads	Public Utilities Commissions	Corporation Commissions	No Commissions
None	Alabama Arkansas California Florida Iowa Kentucky Louisiana Michigan Minnesota Mississippi Missouri Nebraska Nevada North Dakota South Carolina South Dakota Tennessee Texas	Colorado Connecticut District of Columbia Georgia Hawaii Idaho Illinois Indiana Kansas Maine Maryland Massachusetts Montana New Hampshire New Jersey New York Ohio Oregon Pennsylvania Rhode Island Vermont Washington West Virginia Wisconsin	Arizona North Carolina Oklahoma Virginia	Delaware New Mexico Utah Wyoming

RAILROAD ESTABLISHMENT AND MANAGEMENT

The following table shows when the first commissioner, commission or board having authority over railroads was established in each state, also the year since which each state now having such an authority has been in continuous possession thereof. It does not, however, indicate the changes, which have been many and often important, in titles, powers or composition.

State	First Commission	Continuously Since
Alabama	1881	1881
Arizona	1891-1895	1909
Arkansas	1899	1899
California	1876	1876
Colorado	1885	1885
Connecticut	1853	1853
Delaware		
Florida	1887-1891	1897
Georgia	1879	1879
Idaho	1913	1913
Illinois	1871	1871
Indiana	1905	1905
Iowa	1878	1878
Kansas	1883-1898	1901
Kentucky	1880	1880
Louisiana	1898	1898
Maine	1858	1858
Maryland	1910	1910
Massachusetts	1869	1869
Michigan	1873	1873
Minnesota	1871	1871
Mississippi	1884	1884
Missouri	1875	1875
Montana	1907	1907
Nebraska	1885-1901	1907
Nevada	1907	1907
New Hampshire	1884	1884
New Jersey	1907	1907
New Mexico		
New York	1855-1857	1883
North Carolina	1891	1891
North Dakota	1885	1889
Ohio	1867	1867
Oklahoma	1909	1907
Oregon	1887-1898	1907
Pennsylvania	1907	1907
Rhode Island	1839	1872
South Carolina	1878	1878
South Dakota	1885	1889
Tennessee	1883-1884	1897
Texas	1891	1891
Utah		
Vermont	1877	1877
Virginia	1877	1877
Washington	1905	1905
West Virginia	1913	1913
Wisconsin	1874	1874
Wyoming		

RAILROAD ESTABLISHMENT AND MANAGEMENT. Commercial Considerations. The beginning of American railroads, and their remarkable growth in mileage were due almost entirely to commercial reasons. In a few cases political considerations had weight, and in the construction of the first transcontinental railroad military reasons were potent; but, generally speaking, the military and political influences affecting the transportation agencies of Europe have had practically no play in the railroad development of the United States. The growth of mileage from 1835 to 1910 is seen in the following table (the term "mileage" signifies single-track mileage):

Year	Mileage in Operation
1835	1,098
1845	4,633
1855	18,374
1860	30,625
1870	52,922
1880	93,262
1890	167,191
1900	198,964
1910	249,992

The commercial stimuli in railroad building are: (1) profit on construction contracts; (2) profit on sale of bonds; (3) speculative value of capital stock; (4) dividends to be earned by operation.

The promoters of a new railroad, when satisfied that its construction is advisable, have first to organize and incorporate a company and obtain a charter from the state. If backed by an existing railroad with financial resources, or by banking interests, the necessary funds may be had without difficulty. If an entirely independent project, the promoters will take steps to enlist private capital by inviting subscription to stock issues, and by the sale of bonds with or without stock bonus.

Stock and Bonds.—A railroad is usually bonded for an amount nearly that which it would probably bring at a forced sale. The payment of the interest on the bonds is a first lien on the property after the payment of operating expenses. The remaining surplus from operation is then available for dividends, first on the preferred and next on the common stock; or it may be held in reserve for additions and betterments. The stockholders manage the property through a board of directors elected at their annual meeting. The bondholders have no voice in management so long as interest charges are paid regularly. If defaulted, the bondholders have a receiver appointed, foreclose their mortgage, or reorganize without foreclosure. In that event, the interests of the stockholders may be seriously reduced or wiped out, and those of the junior bond issues scaled downward in amount or in interest rate. The laws of some states provide that the paid in capital stock must not be less than the bonded indebtedness, but the average for the country in 1910 was 56 per cent funded debt and 44 per cent capital stock.

See ACCIDENTS, RAILROAD AND STEAMSHIP; FREIGHT, CLASSIFICATION OF; DIFFERENTIALS IN RAILROAD TRAFFIC; DISCRIMINATION IN RAILROAD RATES; EXPRESS SERVICE, REGULATION OF; INTERSTATE COMMERCE COMMISSION; LONG AND SHORT HAUL; PUBLIC SERVICE COMMISSIONS and under RAILROAD; RAILROADS; TRANSPORTATION.

References: Interstate Commerce Commission, *Railways in the United States in 1902*, Pt. IV, *State Regulation of Railways*; New York State Library, *Yearbook of Legislation* (annual), F. H. Dixon, in *Political Science Quarterly*, XX, Dec., 1905; State R. R. Commissions, *Reports*; *Poor's Railway Manual* (annual); *Am. Year Book*, 1910, 544; 1911, 556-58; 1912, 543-544; 1913, 570-573.

HAROLD M. BOWMAN.

Construction.—Legal and financial preliminaries having been arranged, the next step is the construction organization. Sometimes the entire work is done by company forces; more often it is done by contractors. In either case, the chief engineer is in charge, assisted by resident engineers on each section. Ordinarily there are two forces, one at headquarters preparing plans and directions, and one in the field prosecuting the work according to the plans provided. When completed, the road is turned over to the operating department and the road is then ready to solicit and move freight and passengers.

Executive Organization.—The major departments of a railroad organization are: (1) executive, including financial, accounting, and legal; (2) maintenance of way and structures; (3) maintenance of locomotives and cars; (4) solicitation of traffic; (5) operation—the movement of traffic.

The responsibility for the management of a railroad is vested in the board of directors (see **DIRECTORS**). The chairman of the board presides at its meetings but his authority and importance vary. In some cases his position is virtually that of president emeritus; on other railroads he wields an important influence in shaping the policy of the company. The active head is the president. He represents the board in dealing with other officers and employees and the public, and has general supervision and direction over all branches of the service. His active participation in details, and the number of vice-presidents and other officers to assist him, depend upon the size of the road and the volume and diversity of its traffic. On a very small line the president may assume also the functions of the general manager or the chief engineer, or even of the superintendent. On a very large system he can do little more than outline a policy and exercise the most general supervision over the various departments.

Example of Division Organization.—The organization of the Pennsylvania Railroad will illustrate the general plan. On railroads of smaller mileage the organization is less elaborate, but the basic structure is common to all.

The Pennsylvania has five vice-presidents, a secretary, and a general counsel reporting direct to the president. The secretary keeps the corporate records and is assisted by a registrar of stock and a transfer clerk. The general counsel has general charge of all litigation and other legal business and is assisted by district counsels and a claim agent, the latter in charge of the investigation and settlement of claims for personal injury.

The first vice-president supervises and directs the purchasing, real estate, and pension departments. The purchasing agent is in direct charge of the purchase of materials and supplies for all departments. He is assisted by a fuel agent and a stationer. The real

estate agent has the custody of all deeds, releases, plans and records of real estate, and has charge of negotiations relating to real estate, water rents, taxes, etc. The active administration of the pension department is vested in a committee made up of officials of several operating departments.

The second vice-president supervises the accounting department and is assisted by a comptroller or general auditor who has charge of the books and accounts which must be kept in the form prescribed by the Interstate Commerce Commission (see **UNIFORMITY OF RAILROAD ACCOUNTS**). The checking and regulation of returns from agents, other employees and other railroads are in immediate charge of an auditor of merchandise receipts, an auditor of coal receipts, an auditor of passenger receipts, and an auditor of miscellaneous receipts. On a smaller road the auditing of all revenue would be in charge of one auditor. There is also an auditor of disbursements whose duties are indicated by his title.

The third vice-president has charge of the organization for solicitation of traffic and of relations with connecting and competing railroads and steamship companies. The traffic department also makes rates. It has two grand divisions, the first in charge of a freight traffic manager, the second administered by a passenger traffic manager. Under the former are the general and division freight agents, superintendents of fast freight lines, and the freight claim agent. Under the latter come the general and division passenger agent and a general baggage agent. On other railroads it is usual for the freight claim agent to be a part of the accounting department.

The fourth vice-president supervises the treasury department and has general oversight of the financial affairs of the corporations in which the Pennsylvania Railroad has pecuniary interest. Under his direction the treasurer is the custodian of all money and securities, and keeps the financial accounts. He pays the vouchers drawn by the various departments and approved by the comptroller, and attends to the payment of interest on funded debt and dividends on stock. He is assisted by a cashier and a registrar of bonds.

The fifth vice-president has supervision and direction of the operating department and is assisted by a general manager, a chief engineer, and a chief of motive power. The general manager has charge of all operations of the transportation and maintenance departments. The chief engineer has charge of engineering and construction work (not maintenance), including the preparation of plans and specification. As a staff officer he prescribes standards for the guidance of the line officers under the general manager. Similarly, the chief of motive power is a staff officer prescribing standards for the line officers of the motive power and car departments. The general manager is

assisted by a chief engineer of maintenance of way, who has supervision over the maintenance of roadway, track, bridges and buildings; a general superintendent of motive power, with supervision over the construction and maintenance of locomotives, cars and machinery; a general superintendent of transportation, who supervises station, train, and yard service, and distribution of equipment; a superintendent of telegraph, in charge of the telegraph and telephone line construction and maintenance; and a general superintendent on each operating district. The general superintendent and the division superintendents are responsible for the execution of operations under the direction of the chief engineer of maintenance of way for matters relating to maintenance of way and structures; under the direction of the general superintendent of motive power for matters relating to maintenance and care of equipment; and under the direction of the general superintendent of transportation in matters relating to transportation. They regulate the employment, discipline, and wages of employees of the operating department, and are responsible for the safe, prompt, and economical movement of trains.

Departmental Organization.—The Pennsylvania follows the so-called divisional plan of organization in the operating department, *i. e.*, the unit is the division and the superintendent has complete jurisdiction over all operating branches on his division. The British type is known as the departmental organization, the unit being the department. Each department has a head with a subordinate official on each division reporting to him instead of to the superintendent. With the divisional type the superintendent must have a broad training and an understanding of technical matters, and as well possess the knowledge and experience necessary to handle large forces of men in the complex work of operating trains and terminals. The advocates of the departmental plan believe that better results follow specializing in the technical branches of railroading, with the division officials in charge of maintenance of way, structures, and equipment, reporting direct to their department heads. Under this organization the superintendent is in direct charge of train, station and yard service only, and has no jurisdiction over maintenance. The majority of American railroads favor the divisional plan, notably the Pennsylvania and Hariman lines. The New York Central is a good example of the departmental type.

Under the divisional plan, the superintendent is assisted in maintenance of way and structures by a division engineer, track supervisors, signal supervisors, and a master carpenter. In equipment maintenance he is assisted by a division master mechanic, a master car repairer, a road foreman of equipment, engine house foremen, and specialists in mechanical matters such as air-brake instructors, trav-

eling firemen, etc. In transportation, the superintendent's chief assistant is the train master, who regulates train and yard service, and has immediate supervision over train and yard employees. The chief train dispatcher has immediate charge of the transmission of train orders and attends also to the execution of orders relating to the distribution of equipment.

Coöperation.—There is close coöperation between the railroads in organizing associations of officers for mutual benefit (*see* RAILROAD ASSOCIATIONS). The ranking body is the American Railway Association composed of executive and operating officials. Through the work of its officers and committees, and in discussion at its semi-annual meetings, much has been done to standardize railroad operation, notably the establishment of standard time and the compilation and general adoption of the standard code of train rules. The association regulates relations between railroads in such matters as rates for hire of equipment, detouring trains, etc. In the maintenance departments, the American Railway Engineering Association has promulgated a *Manual of Recommended Practice*, and the Master Car Builders' Association has a code of rules governing the interchange and repairs of cars used jointly. The master mechanics, signal engineers, general foremen, roadmasters, and many other technical associations have an active existence. In other departments there are associations of superintendents, accounting officers, freight claim agents, telegraph superintendents, and many others.

Employees.—Civil service is the general rule for promotion of men in the ranks, and in the branches of the service which are strongly organized the principle of seniority is strictly adhered to. The oldest man in service automatically progresses to the next best position when it is vacated, unless there is positive evidence of his unfitness, and then the burden of proof in refusing promotion is on the superintendent. The labor unions insist upon this principle because of former injustice through favoritism. The strongest union is the Brotherhood of Locomotive Engineers, numbering 72,500. Then come the Order of Railway Conductors (49,000); Brotherhood of Railroad Trainmen (136,000); and the Brotherhood of Locomotive Firemen and Enginemen (75,000). Other railroad labor unions are the Order of Railroad Telegraphers, Switchmen's Union, and various shop crafts. The telegraphers, switchmen and shopmen are affiliated with the American Federation of Labor, but the four train service brotherhoods have held aloof from such an alliance.

See ACCIDENTS, RAILROAD AND STEAMSHIP; BILL OF LADING; DIFFERENTIALS IN RAILROAD TRAFFIC; DISCRIMINATION IN RAILROAD RATES; FREIGHT TRANSPORTATION, CLASSIFICATION OF; INTERSTATE COMMERCE LEGISLATION; LONG AND

SHORT HAUL; MERGER OF RAILROADS; POOLING IN RAILROADS; PULLMAN CARS. REGULATION OF; REBATES IN TRANSPORTATION; and under RAILROAD; RAILROADS; TRAFFIC; TRANSPORTATION.

References: Ray Morris, *Railroad Administration* (1910); M. L. Byers, *Economics of Railway Operation* (1906); L. G. McPherson, *Working of the Railroads* (1906), *Transportation in Europe* (1910); E. R. Johnson, *American Railway Transportation* (1910); E. R. Dewsnup, *Railway Organization and Working* (1906); E. R. Johnson and G. G. Huebner, *Railroad Traffic and Rates* (1911); F. L. McVey, *Railroad Transportation* (1910); J. A. Droege, *Freight Terminals and Trains* (1912); J. S. Eaton, *Handbook of Railroad Expenses* (1913); U. S. Census, *Commercial Valuation of Railway Operating Property*, Bulletin, No. 21, 1905; Interstate Commerce Commission, *Monthly Bulletin of Accidents in the U. S.* (from 1909), *Statistics of Railways in the U. S.* (1909), *Annual Reports* (from 1887); *Am. Year Book*, 1910, 535, *ibid*, 1911, 549 *et seq.*, *ibid*, 1912, 538 and year by year; the following weekly periodicals: *Railway Age Gazette*; *Railway World*; *Railway and Engineering Review*; *Commercial and Financial Chronicle*.

WILLIAM J. CUNNINGHAM.

RAILROAD, PANAMA. See PANAMA RAILROAD.

RAILROAD RATES, DISCRIMINATION IN. See DISCRIMINATION IN RAILROAD RATES.

RAILROAD TRAFFIC, DIFFERENTIALS IN. See DIFFERENTIALS IN RAILROAD TRAFFIC.

RAILROADING. A term indicating the effort in a legislative assembly to force through the enactment of a measure into law by unscrupulous means and without time for reasonable investigation or debate. O. C. H.

RAILROADS, ELECTRIC. Serviceability of Electricity. A great variety of practicable methods present themselves for use in electric railway work, and all of them are in successful use. The principles of current supply are essentially the same as those which have become standard in electric light and power distribution, namely, the generation of electrical energy by large, three-phase, high-voltage, alternating dynamos driven by steam engines, steam turbines, gas engines, or water turbines; said energy being delivered to distant substations and there transformed for use as direct current in the motors on the track. There are, however, many roads on which alternating current is used in the motors without conversion, although phase or frequency may be changed, or the pressure be lowered. Great flexibility exists in all these respects, render-

ing easy the adaptation of plant to any set of operating conditions; and the art is still far from having reached standardization or uniformity. It has, nevertheless, conquered the entire domain of street railways, is used exclusively on numerous interurban and long main lines, and is rapidly being introduced for the city terminals of the leading trunk systems. In underground and subwater transportation it reigns supreme, as well as on elevated railroads, giving service utterly impossible under steam conditions. For such electrical transportation, the public of New York City now pays nearly \$80,000,000 annually or about \$16.00 per capita.

Transmission of Power.—Methods of connecting the car in motion with the source of current supply are numerous. The overhead trolley (*see*) system is almost universal. The circuits for contact are carried by centre poles, side poles, brackets, arms, etc., and by span wires covering one or two tracks. On such roads as the New York, New Haven and Hartford, the contact wires are held up by catenary construction attached to frequent steel bridges. With the downward or under running contact, as on elevated roads and in subways, and along the New York Central or other long lines, the "picking up" device is a sliding metal shoe pressed against a third rail, usually outside the track rails; and this third rail is sometimes protected by a hood. On Manhattan Island, many miles of important thoroughfares, such as Broadway, have a conduit between the rails, and a bar from the car chassis passes down through the slot in such a manner that the plow carried along makes sliding contact with metal conductor bars therein.

This does not exhaust the range of feasibility. Several self-contained cars are in service equipped with storage batteries, and in competition with these are "trackless trolleys," in which rails are dispensed with, current being taken from overhead wires in the usual way, but with double contact devices, to complete the circuit.

Motors.—With regard to the motors, a variety of methods is seen. For heavy main line traffic, the locomotive principle still applies, but the hauling machine is sometimes divided into two similar units; while the revolving parts drive directly on the wheels. As a general thing, electric traction depends, however, on the principle of distributing the propelling power throughout the train of cars, in several motors, under "multiple unit" control, thus securing better starting and stopping, and swifter acceleration. The number of motors to a locomotive, a train, or a single car, varies with the work to be done. A street car usually has two motors, but many of the larger interurban cars have four, although these often have trailers without motors, attached to them. Such trail cars were once common objects in city streets, but the tendency has been

to abandon them and lengthen the powered unit car so as to increase passenger capacity and speed up the running schedule.

Extension of the System.—Most remarkable in electric railway work has been the swift expansion of the interurban trolley system, so that whole regions are networked, and one can go by trolley car from the Atlantic to the Middle West. In fact, sleeping cars, dining cars, etc., can be found on some of the lines, which operate under interstate commerce laws, and differ in no respect except motive power from the steam railroads, with which they frequently compete although in many instances they serve as valuable feeders. The rates of fare are lower and cases are numerous where they have absorbed practically nearly all the short haul passenger traffic—as between St. Paul and Minneapolis, Albany and Schenectady. So far, the freight traffic is in an undeveloped condition on these lines, but they have already monopolised the milk and fruit delivery at many points, and by express systems and

(4) in many instances the city receives a share of the gross receipts in return for the use of the streets; (5) various cities impose special taxes, additional to or in lieu of those on real estate or personal property, such as so much per car, or per mile of track, or per pole, or even per mile of wire; (6) numerous cities make the upkeep of street paving along the route a condition of the franchise, either from curb to curb, or adjacent merely to the tracks; (7) in many places there is a requirement as to street sprinkling, either to be done by the company itself or on a basis of division, the city sometimes supplying the water free; (8) many cities exact the free travel of city employees in uniform such as policemen and firemen, and in various cases, there are special rates of fare reduction exacted for workingmen during certain hours, or for children in attending the public schools.

The following condensed table shows the general situation in 1907 as compared with that of 1902:

	1902	1907	Per Cent Increase
Number of operating and lessor companies -----	977	1,236	25.2
Length of 1st train track (miles) -----	16,645.34	25,547.19	53.5
Total length of single track (miles) -----	22,576.99	34,403.56	52.4
Number of cars -----	66,784	83,641	25.2
Passenger cars -----	60,290	70,016	16.1
Other cars -----	6,494	13,625	109.8
Passengers carried -----	5,836,615,296	9,533,080,766	63.3
Total car mileage -----	1,144,430,466	1,617,731,300	41.4
Gross income -----	\$250,504,627	\$429,744,254	71.6
Net income -----	\$20,596,977	\$40,340,286	31.8
Capital stock (par value) -----	\$1,315,572,960	\$2,097,708,856	59.5
Bonds (par value) -----	\$922,709,139	\$1,677,063,240	68.9
Total employees -----	140,769	221,429	57.3

special fares have built up a great number of prosperous suburbs in rural regions, affecting profoundly the condition of the farmer, to thousands of whom they also furnish electric light and power for agricultural implements, churning, fodder cutting, grain grinding, etc.

Fares.—In the cities, a flat rate of five cent fare, regardless of distance, has been almost universal; by a widespread system of transfers this is reduced in many cities to not much more than three cents per ride to the company. In some parts, as in Massachusetts and New York, owing to increased cost of operation, consent has been given to raising the rate to six cents.

Joint Public and Private Ownership.—There are very few roads owned by municipalities, but a practice is growing up of joint public and private ownership, or of the representation of the city in the directorate, or of ultimate ownership by the city if it desires. Such conditions exist, for example, in New York City, Chicago and Philadelphia. Chaos prevails generally as to the granting of such franchises: (1) some reserve to the city the right to purchase the property at the expiration of a limited term; (2) some franchises are indeterminate; (3) some are perpetual;

Electrification of Steam Roads.—The conversion of large main steam railroad systems to electricity involves many problems besides that of cost in making the change, and many elements in the question are still hotly disputed, but the process has actually begun, and the electrical arguments as to greater flexibility, economy, cleanliness, etc., have been sustained wherever the test has been made.

Incidental to the change to electricity from steam has come a new problem in the control of these utilities by governmental authority. Where there are interstate trolley lines, the Interstate Commerce Commission has intervened and has insisted that such properties must obey its rulings as to systems of accounts and other features of actual operation. But, in many instances, these roads are already under the supervision of two or perhaps three state public service commissions, none of which has standardized its control into conformity with that of kindred bodies. Hence it is literally impossible for the management of such a utility to comply with all the requirements, some of which are contradictory; and one process of solution is that of terminating any such system at a state line, and there exchanging traffic with another

separate member of the same system. Such methods work against improvement; and it is obvious that the utilities must soon be relieved from conflicting requirements, if the public is to be fully benefited by the existence of the service.

In the early days when each little road carried relatively few passengers, the problems were simple, but now in almost every instance a street railway system operates far beyond its original city limits, has control of spheres of influence outlying its suburban area, and carries not only passengers, but freight, express and mail; so that the sphere of government has to be correspondingly enlarged.

See INTERURBAN LINES; PUBLIC SERVICE COMMISSIONS; PUBLIC UTILITIES; RAPID TRANSIT IN CITIES; SUBWAYS AND TUNNELS; TROLLEY LINES; and under RAILROAD: RAILROADS.

References: U. S. Bureau of the Census, *Street and Electric Railways, Report*, 1907, *Special Report*, 1910; New York and Wisconsin Public Service Commissions, *Reports* (1909-12); Massachusetts Highway Commission, *Reports* (1909-12); Electric Railway Journal, *Files* (1910-12); American Electric Railway Assn., *Proceedings* (1911-12); "Electric Railway Transportation" in Am. Acad. Polit. and Soc. Sci., *Annals*, XXVII (Jan., 1911); Board of Supervising Engineers Chicago Traction, *Reports* (1908-12); Pittsburg Transportation Problem, *City Report*, 1910.

T. COMMERFORD MARTIN.

RAILROADS, ELEVATED. The first elevated railroads in this country were constructed in New York City about 1878. At the present time (1913) this method of transportation is in use in New York, Brooklyn, Chicago, Boston, Philadelphia, Berlin, Paris and Liverpool. All of these roads are now electrically operated, although many of them were originally built for operation with steam. The cost of elevated railroads of each type at the present time, per mile of double track, compare as follows: open floor, lowest cost, \$300,000; average cost, \$400,000; solid floor, lowest cost, \$550,000; average cost, \$700,000.

The elevated railroad as a method of rapid transit, has been superseded to a considerable extent in popular favor by the subway. Although considerable improvement has been made as regards the architectural appearance of elevated lines, they are always unsightly and decrease the capacity of the streets. The introduction of solid floors, supporting stone ballast in which the tracks are laid, has eliminated to a large extent the objectionable noise accompanying this type of rapid transit. Nevertheless, experience has shown that wherever elevated roads are proposed on streets occupied to a considerable extent for residential purposes, local opposition develops. It is the opinion of expert engineers, however, that the elevated road is a necessary part of

any well developed system of urban transportation, either as trunk lines leading from the residential sections to the down town business districts, or, more especially, as feeders to a trunk line subway tapping the business section.

The great cost of subway lines—approximating from four to seven times as much as elevated lines of a similar trackage capacity—precludes the construction of this type of rapid transit into all sections of a city. With the same capital investment, it is possible through the use of elevated lines, in whole or in part, to secure a much greater measure of rapid transit. This is the basis for the engineer's preference for the continued use of this type of road. In addition, experience has demonstrated that in every case the streets on which elevated lines are constructed become almost immediately business thoroughfares, although theretofore they may have been used for residential purposes. This change is due to the fact that the convergence of streams of travel makes the frontage desirable for retail stores.

See CITY PLANNING; FRANCHISES, CORPORATION; MUNICIPAL OWNERSHIP; RAILROADS, STREET; RAPID TRANSIT IN CITIES; SUBWAYS AND TUNNELS FOR CITY TRANSIT; TRANSIT IN CITIES, PROBLEMS OF.

References: *American Railway Investments* (annual); B. J. Arnold, *Report on the Loop Problem in Chicago* (1911), *Report on the Pittsburg Transportation Problem* (1910), *Recommendations and General Plans for a Comprehensive Subway System for the City of Chicago* (1911); New York Pub. Service Com., *New Subways for New York—the Dual System of Rapid Transit* (1913); A. M. Taylor, *Report of the Transit Commission, City of Philadelphia* (1913).

THOMAS CONWAY, JR.

RAILROADS, INTERURBAN. See INTERURBAN LINES.

RAILROADS, MERGER OF. See MERGER OF RAILROADS.

RAILROADS, PACIFIC. See PACIFIC RAILROADS.

RAILROADS, PHYSICAL VALUATION OF. An inventory by expert engineers of the constituent physical elements of a railroad. Each separate physical form of railroad property is assigned a value, which as a rule is based on its cost of reproduction and the length of its life, or in other words, the average market value less depreciation. These property elements include real estate, grading, bridges, culverts, stations, terminals, rails, ties, poles, locomotives, cars, and many other items.

Many valuations of railroad property have been made but not all of them with the same object in view. Banking houses have had valuations made to assist them in effecting

railroad reorganizations. Railroad companies have themselves undertaken valuations and some companies have valuations now under way, being dominated in their action by the same purpose as a merchant who takes an inventory of his stock in trade. The state of Texas made a physical valuation of the property of all railroads in the state in 1893, and has continued the process since with new railroads as they are built, as a part of its function in the enforcement of the stock and bond law to prevent over-capitalization. Michigan in 1900 and Wisconsin in 1903 made valuations for equalizing taxation.

But the widespread public demand for a general valuation of railroads is based on more fundamental considerations. It is a part of the effort to solve the problem of reasonable rates. The reasonableness of no individual rate can be determined by reference to the value of the property of the railroad charging the rate, but the reasonableness of an entire schedule of rates should bear some relation, so the advocates of physical valuation insist, to the value of the property employed in transportation. Judicial support for this position is commonly drawn from a decision of the Supreme Court of the United States in 1898 (*Smyth vs. Ames*, 169 U. S. 466) in which the Court declared that "the basis of all calculations as to the reasonableness of rates . . . must be the fair value of the property being used by it for the convenience of the public."

It was with this purpose in mind that valuations were made by the respective state railroad commissions in Minnesota in 1907, in South Dakota in 1908, and in Washington beginning soon after the establishment of the Commission in 1905.

The Interstate Commerce Commission frequently urged in its annual reports that adequate provision be made for a physical valuation of all interstate railroads. Such valuation, it was said, would not only be helpful in the determination of the reasonableness of rates, but would make possible an accurate statement of corporate assets on the railroad balance sheet and would aid in the enforcement of any law to regulate the issue of securities. In response to this recommendation the House of Representatives added an amendment to the measure which, in June, 1910, became law as the Mann-Elkins Act, but it was later eliminated in conference between the two Houses. This amendment directed the Commission to ascertain the value in money of all railroad property in the United States and to keep the valuation up to date by periodical estimates of improvements.

Continued recommendations of the Interstate Commerce Commission finally resulted in the passage of the Adamson Act of March 1, 1913. The act directs the Interstate Commerce Commission to investigate, ascertain, and report the value of every piece of property

owned or used by all common carriers subject to the Interstate Commerce Act, which include railroad, sleeping car, express, steamboat, pipeline, telegraph, and telephone companies. As to every piece of property, the report is to show in detail "the original cost to date, the cost of reproduction new, and the cost of reproduction less depreciation." It is to "state in detail and separately from all improvements the original cost of all lands, rights of way, and terminals owned or used for the purposes of a common carrier, and ascertained as of the time of dedication to public use, and the present value of the same." In ascertaining original cost to date the Commission is instructed "to investigate and report upon the history and organization of the present and of any previous corporation operating such property; upon any increases or decreases of stock, bonds, or other securities in any reorganization; upon moneys received by any such corporation by reason of any issues of stocks, bonds, or other securities; upon the syndicating, banking, and other financial arrangements under which such issues were made and the expense thereof; and upon the net and gross earnings of such corporations; and shall also ascertain and report in such detail as may be determined by the Commission upon the expenditure of all moneys and the purposes for which the same were expended."

All final valuations by the Commission are to be accepted as *prima facie* evidence of the value of the property in all proceedings under the Interstate Commerce Act and in all judicial proceedings brought to enjoin, set aside, annul, or suspend any order of the Interstate Commerce Commission.

See INTERSTATE COMMERCE COMMISSION; RAILROAD CAPITALIZATION; RAILROAD COMMISSIONS, STATE.

References: H. C. Adams, W. H. Williams, and J. P. Cotton, Jr., in *Am. Econ. Assoc., Proceedings*, XI, April, 1910; W. Z. Ripley in *Pol. Sci. Quart.*, XXII (1907), 577-610; Railroad Commission of Washington, *Finding of Facts Relative to the Valuation of Railroads* (1909); Railroad and Warehouse Commission of Minnesota, *Annual Report*, 1908.

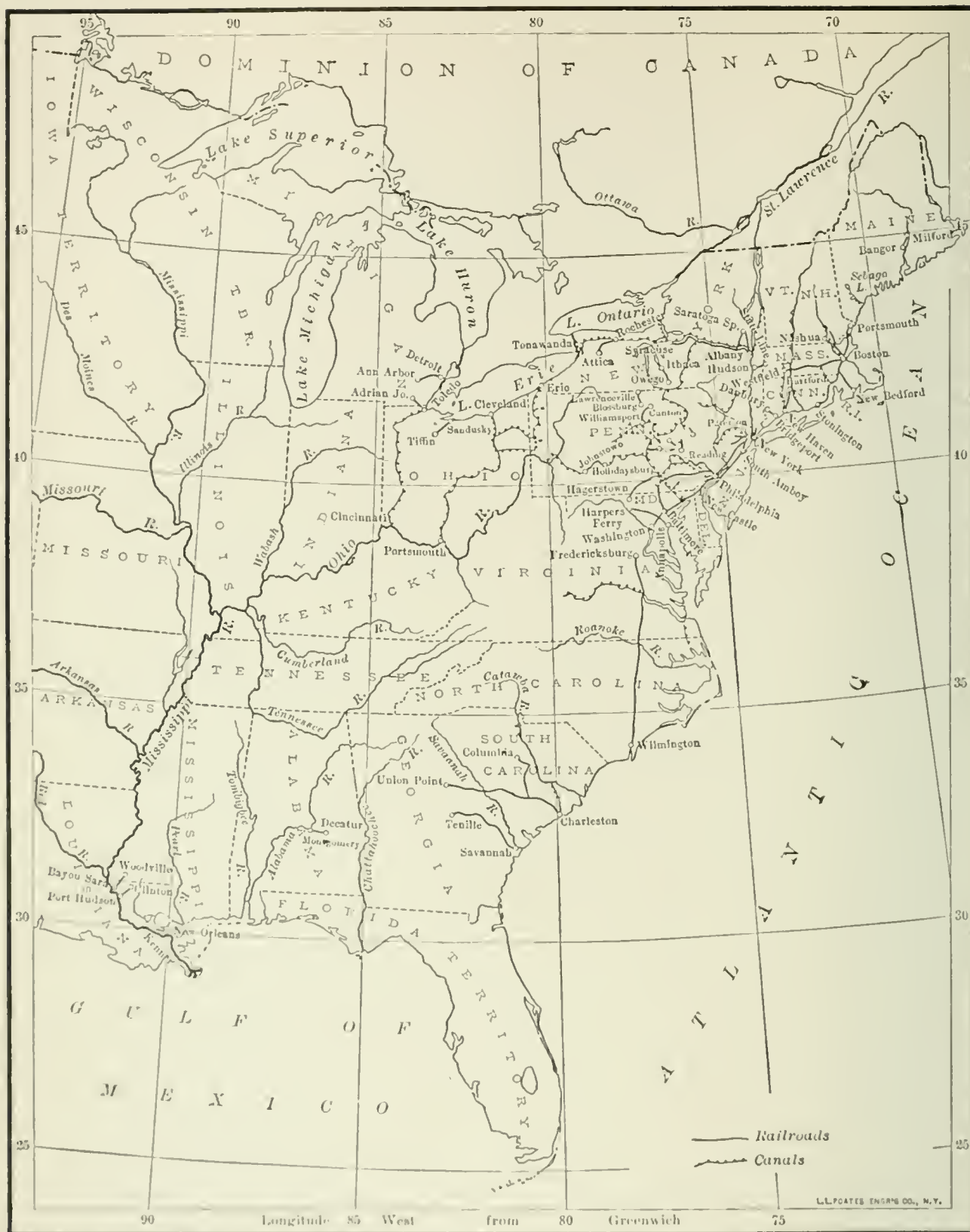
FRANK HAIGH DIXON.

RAILROADS, POOLING IN. See POOLING IN RAILROADS.

RAILROADS, PUBLIC AID TO. The need for domestic markets and for political coherence early caused a demand for aid to railroads in the United States. The eagerness of states and cities for trade connections, coupled with a jealousy of the power of the Federal Government and a relatively unimportant interstate commerce, explains why a large part of the aid given came from state and local governments.

Periods and Amounts of State Aid.—The aid granted by states falls into well-defined periods.

RAILROADS, PUBLIC AID TO

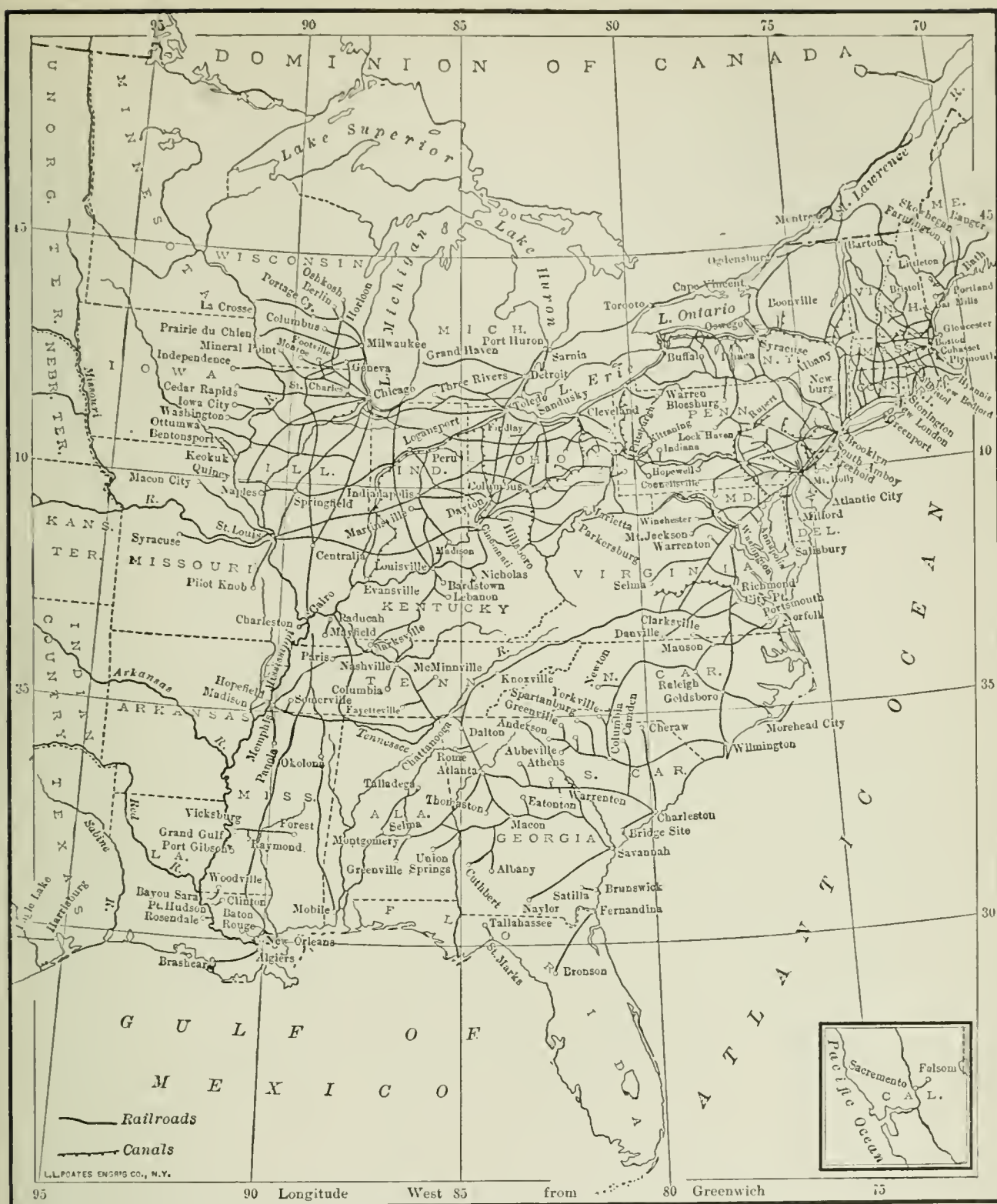


RAILROADS AND CANALS IN 1840

(1) Beginning in 1815, the development of the West and the spread of cotton culture brought great pressure upon legislatures to subsidize or construct transportation facilities—soon including railways—a pressure which reached its climax just before the crisis of 1837. At first, canals rivalled railways and retarded aid to them, but the rapid improvement of rail transportation and the realization of the limitations of canals overcame this resistance about 1835. In 1827 came the first considerable state aid to railways, when Maryland subscribed

\$500,000 to the Baltimore and Ohio. Between that year and 1841, this state issued bonds to railways to an amount over \$6,800,000. At about the same time (1827), Massachusetts appropriated \$10,000 to ascertain the best route westward through the state to the Hudson. The real beginning of aid in Massachusetts, however, came in 1836, when \$1,000,000 was subscribed to the Western Railroad (Worcester to Albany); and, by 1841, at least \$5,050,000 of the state's credit had been extended to railways. Pennsylvania made her

RAILROADS, PUBLIC AID TO



RAILROADS AND CANALS IN 1860

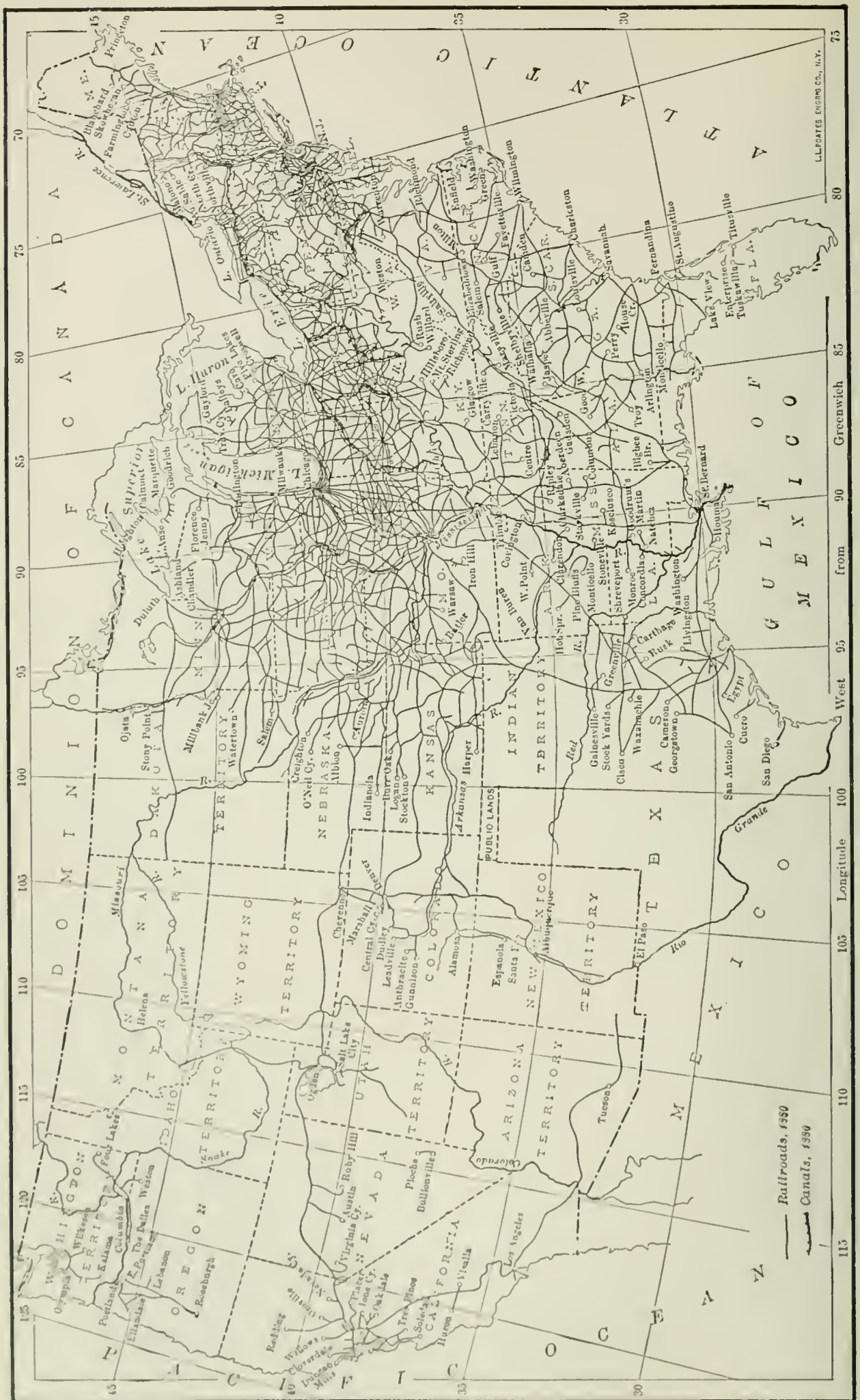
first appropriation of \$800,000 for the Pennsylvania Railroad and Canal Co. in 1828; and New York took up the policy with a grant of \$3,000,000 to the Erie Railway. By 1840, New York had aided railways to the extent of \$4,450,000. The great rush, however, came between 1836 and 1841: then Ohio, Michigan, Indiana, Illinois, Georgia, Tennessee, Virginia, South Carolina, and Louisiana, all granted aid to railways. The speculative activity preceding the crisis and the distribution of the surplus federal revenue may be mentioned as factors.

(2) In 1841, a period of little aid began. The crisis was followed by a long depression, lasting till about 1850. The period is marked by the constitutional prohibition of aid to improvements in several northern states.

(3) 1851-1861: With the renewal of prosperity, about 1850, a new period of state aid began. It was most marked in the South, where such states as Kentucky, North Carolina, and Missouri virtually began the public aid policy.

(4) 1865-1870: After the Civil War Alabama, Florida, Arkansas, and Texas had their

RAILROADS, PUBLIC AID TO



fling; and several other southern states resumed the aid policy. By far the largest grants of state aid were made in the South.

With the early seventies the aid policy may be said to end. By 1907, all but five states had in some way forbidden state participation in internal improvements.

Altogether, it has been estimated that over \$228,000,000 was appropriated or expended by states for the purpose of aiding railways. This does not include land grants made by states, which were of considerable importance in the cases of Texas—a state which retained possession of the public lands within its bounds—Florida, and Minnesota. Nor does it include the item of exemption from taxation or free surveys.

Forms and Restrictions.—The chief forms in which aid was granted by states were land, stock subscriptions, and loans of public credit; and under the last head either the bonds of the state might be granted, or the bonds of the railways or of municipalities for railways might be guaranteed. Stock subscriptions were more common in the South.

The provisions made in the grants of aid, by way of limitations, safeguards, and means of repayment differed greatly. Thus some states, such as Ohio, provided that aid should be given only when two-thirds of the capital stock or of the estimated cost had been subscribed; others—North Carolina, for example (1848-49)—specified one dollar of public funds for every dollar of private expenditure; still others, like Georgia, merely provided a maximum amount for each case. Often a maximum per mile allowance was set, as in Tennessee. As to provisions for repayment, sometimes there were none; in other cases, the state provided for a lien on the road or parts thereof; and in several instances, sinking funds were prescribed (as in Tennessee, 1852). Too often, bonds were turned over to the railways before any real work was begun (*e. g.*, North Carolina); but sometimes it was enacted that aid could only be given as sections of varying length were completed. It is generally recognized that the usual grants inadequately guarded the interests of the state; and, where safeguards were attempted, they were not always enforced. Ohio and Massachusetts were among the more successful states in this regard.

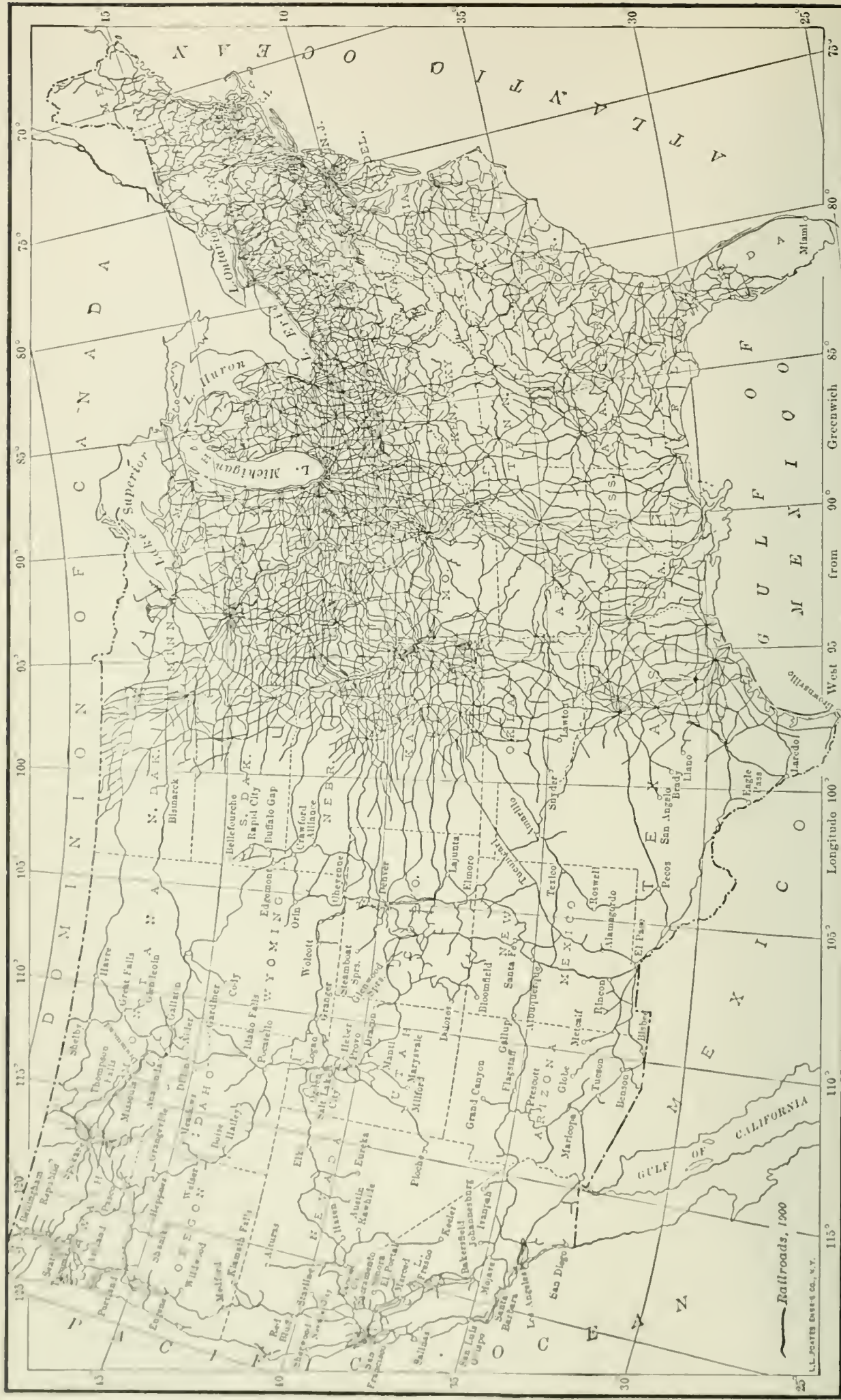
Federal Aid.—The Federal Government also gave much aid to railways. Two great periods may be distinguished: that between 1825 and 1850, and one extending from 1850 through 1870. Prior to 1850, aid was given in the shape of surveys made by federal engineers; remission of duties on railway iron; rights of way over public land; and proceeds of land sales turned over to the states for railway purposes. The first aid was a survey made between the Kanawha and James rivers in the years 1825-26. In 1832 iron for railways was placed on the free list, where it remained until

1842. The first grant of a right of way came in 1835, the Tallahassee Railroad Co. of Florida being the recipient. In 1850, began the epoch of great land grants, when 3,751,711 acres were granted for the Illinois Central, Mobile and Chicago, and Mobile and Ohio railways. After this, hardly a session of Congress passed without some grant till 1871, when the last one was made. The largest donations were made to the Pacific railways. Altogether some 155,504,000 acres were given, though the amount actually received by railways has been somewhat less on account of forfeitures. Land-grant acts generally provided that troops, mails, etc., should be transported free of toll or other charge; but such indirect return was decided against by the Supreme Court in 1876, and the government merely receives reduced rates of 50 per cent.

In the case of the Union Pacific and Central Pacific group, Congress granted the national credit, loaning 30-year 6 per cent bonds of the United States to the amount of \$16,000 per mile through level country and as much as \$48,000 per mile in the mountains. This meant a total grant of \$64,623,512. After much litigation Congress, by 1899, was able to secure or arrange for the repayment of the principal and most of the interest on these loans.

Local Aid.—Probably the aid given by the states and nation has been exceeded by the donations of counties and municipalities. No complete information exists, but the census of 1870 showed that these local units had outstanding bonds issued in aid of railways to the amount of \$185,000,000, and many had been retired. The 1871 report of the Massachusetts railway commission exhibited 171 local bond issues made between 1830 and 1870 which aggregated \$2,351,000. An investigation in Illinois in 1873 showed that the bonds and money aid voted and issued to railways in 86 counties out of 102 approximated \$16,087,000. In Nebraska, between 1869 and 1892, 43 counties voted subsidy bonds to the amount of \$4,918,000. Texas local units began to issue bonds in order to subscribe to railways in 1850; between that time and 1876, Texas municipalities voted \$347,000 and the counties over \$1,000,000; but in 1875 a clause was inserted in the constitution which prohibited local units from lending to or becoming stockholders in such associations or corporations. Baltimore subscribed \$3,500,000 to the Baltimore and Ohio. All this leaves unmentioned the almost innumerable grants of rights of way, terminal facilities, etc. Relatively few counties and towns exist which have not aided a railway.

Difficulties of the Aid System.—It is a difficult matter to pass judgment upon the expediency of the policies indicated in this brief account. Some grants appear to have been wise; others were obviously foolish. Looking from the long-time standpoint at the vast mass of aid as a whole, one can not but doubt



RAILROADS IN 1900

whether any net gain accrues. Aside from political exigency, the urgency and extent of which can hardly be measured, it is doubtful if the nation would not be as well supplied with railways today if no aid had been given, and in the long run it can make little difference whether any particular town or state or region is settled now or ten years hence. When to these negative considerations are added the clear debits of waste and corruption, judgment must be rather unfavorable; for, even granting that it has been essential that the land be settled with a rush and taxable values raised at once, the clear losses have been tremendous. Construction has been poorly planned and executed; railways have been built where no economic conditions warranted, and two lines where one would do; hasty, cheap construction has been general, necessitating reconstruction almost immediately. Great areas of land, including forest and mineral resources, have been squandered. Lax charters have been granted. Finally, the policy has been the occasion for the most disgusting political corruption.

Provisions for sinking-funds, reductions on government transportation, etc., generally proved a disappointment to the government; and, at the same time, railway stockholders found that the lands rarely equalled their estimated value and were often misapplied.

See GOVERNMENT, THEORY OF; RAILROADS, PUBLIC OWNERSHIP OF.

References: L. H. Haney, *Congressional Hist. of Railways* (1908-10); J. B. Sanborn, *Cong. Grants of Land in Aid of Railways* (1899); J. W. Million, *State Aid to Railways in Missouri* (1896); H. E. Keith, *Internal Improvements in Michigan* (1900); C. S. Potts, *Railroad Transportation in Texas* (1900); B. H. Meyer, "Early Railroad Legislation in Wisconsin" in *Wisconsin State Hist. Assoc., Collections*, XIV (1898); G. S. Callendar, "Early Transportation and Bank Enterprise of States" in *Quart. Jour. Econ.*, XVII (1902), 111-162; W. A. Scott, *Repudiation of State Debts* (1893). LEWIS B. HANEY.

RAILROADS, PUBLIC OWNERSHIP OF.

The public ownership of steam railways has not been a live issue in the United States, and no comprehensive investigation of the subject exists. Down to the present day, the railway situation has been so dynamic and speculative, the private capitalist so active, and the *laissez-faire* philosophy so dominant, that this policy could hardly thrive. The Federal Government has really owned no railways, and there has been no considerable advocacy of such ownership as an immediate step since 1850 when the Pacific lines were being planned, until the determination to build the Alaska railroad was reached in 1914. Several states and cities, however, have owned and have even operated railways.

State Ownership. Pennsylvania.—The earliest considerable case is that of Pennsylvania, which constructed the Philadelphia and Columbia and the Portage railways. Owing largely to the competition of the Erie canal, these roads were not profitable and in 1857 were sold to the Pennsylvania railway at a loss.

Georgia.—Perhaps the most notable case is that of Georgia. This state, between 1836 and 1851, built the Western and Atlantic Railway (132 miles) and operated it until 1870. Several schemes of administration, both elective and appointive, were tried. A board of commissioners was unable to report their exact expenditures, attributing the fact to poor book-keeping; but, on the whole, the road was not notably ill-managed. It was poorly built, however, with the result that for a long time its small earnings were turned into construction. It suffered, too, both from an unbalanced traffic and from a lack of through traffic. In 1857 the state was paying six per cent on the \$6,000,000 which it had cost, while the road did not yield the treasury over one per cent. By 1866, however, it brought in \$600,000, and, in 1870, \$1,000,000 clear revenue. Shortly after this, a private company was formed and succeeded in persuading the legislature to lease the road for a fixed annual rental. In 1890, the Nashville, Cincinnati, and St. Louis became the lessee at \$420,000 per year. The history of this experiment shows that public construction and ownership may lead to uneconomic routes and methods of construction: there was some extravagance in the salaries and wages; freight rates were altered rather frequently to allay popular clamor; and, in at least one case, a private road that appeared likely to divert some traffic was denied a charter. But the Western and Atlantic does not seem to have been much in politics nor to have induced abuse of patronage.

North Carolina.—North Carolina also tried public ownership. The North Carolina Railroad (223 miles) was constructed between 1849 and 1856. Between 1859 and 1894, when it was leased to the Southern Railway Company, the road paid thirty-nine cash dividends. The lease was extended in 1896 to run 99 years, and an annual rental of \$286,000 is now received. The state owns \$3,600,000 of the \$4,000,000 capital stock.

Michigan.—Michigan had a brief and unprofitable experience with public construction and ownership. Having purchased the rights of the Detroit and St. Joseph Railroad, she carried on construction at an expense of some \$2,076,112, to sell out for \$2,000,000 in 1846.

Indiana.—Indiana built a short road from Madison to Jennings county in 1839 and it was operated by the state till 1843.

Illinois.—Between 1838 and 1847 Illinois tried a similar experiment with her Northern

Cross road; but found it a losing venture and sold out in the latter year.

Massachusetts.—From 1863 to 1887 the commonwealth of Massachusetts built the five mile Hoosac Tunnel, together with about forty miles of connecting railroad. Later this stretch was sold by the state to the Boston and Maine Railroad for \$5,000,000.

Texas.—Texas owns and operates a short line between Palestine and Rusk. It is ill-kept and apparently not profitable.

City Ownership.—Several cities have built and owned steam roads with success. Thus Cincinnati, being forbidden by an Ohio law to aid railways, obtained an Ohio charter in 1869, raised over \$18,000,000, and constructed the Cincinnati Southern to Chattanooga by 1880. This road was very well built and it has paid a good revenue to the city. It was early leased to the Cincinnati, New Orleans, and Texas. Between 1840 and 1853, the city of Troy owned the Schenectady and Troy Railway; but there was no economic excuse for the road to start with, its directors were inefficient, and it was sold to become a part of the New York Central system. Another instance is that of the town of North Brookfield, Mass., which between 1875 and 1877 constructed and leased to the Boston and Albany a short branch. This proved a profitable venture, and, like the Western and Atlantic and the Cincinnati Southern, suggests that public ownership with private operation may be considered to have proved practicable in the past experiments in this country.

The city of New Orleans has constructed and now operates a belt railroad to connect its lines intersecting on the east side of the river.

Criticism.—Public ownership of railways is dominant in Europe. The argument for the policy has always lain in the fact that the railway is necessarily a monopoly, while at the same time its service is vitally essential to the well-being of society. There is danger that under private ownership the public will suffer; and the history of discrimination between persons and localities, political corruption, etc., indicates the nature of the danger. On the other hand, the railway business is so vast and complicated, involving vast capital and an army of employees, and the problem of rate making is so delicate, that public ownership cannot well be risked unless efficient and non-partisan management is assured. America began with private ownership and the difficulty of acquiring private lines would now be enormous. Regulation of privately owned lines has been the approved policy in this country. In a rapidly growing nation where great elasticity is needed, the case for this policy is the stronger. As the difficulty of a regulation adequate to meet the growing consciousness of the potentialities and duties of railway transportation to society has been realized, however, the policy has been more seriously questioned.

Experiments with public ownership in the United States throw little light. A capital criticism of public procedure in the past has been that it is apt to take up with uneconomic routes; this, however, would be less and less likely to be a serious difficulty as the railway net becomes more dense. It must in all fairness be observed that the experiments noted, have generally been tried with relatively unprofitable lines, and have not had the advantage of the more recent developments in accountancy and administrative efficiency which could be presumed to play a part in any serious present-day experiment.

See GOVERNMENT, THEORY OF; RAILROAD ESTABLISHMENT AND MANAGEMENT; RAILROADS, PUBLIC AID TO.

References: U. B. Phillips, "American State Owned Railroads" in *Yale Review*, 1906; F. W. Powell, "Two Experiments in Public Ownership" in *Quart. Journal of Economics*, XXIII (1908), 137-150; M. A. Knapp, in *Am. Acad. of Pol. and Soc. Sci., Annals*, 1902; A. Van Wagenen, *Government Ownership of Railways* (1910); C. S. Vrooman, *American Railway Problems* (1910); Library of Congress, *List of Books Relating to Railroads in their Relation to the Government* (1907).

LOUIS H. HANEY.

RAILROADS, REGULATION OF. From the inception of the railroad system in the United States there has been some regulation. Some of the original charters contained maximum provisions as to rates. In some cases, companies were required to submit reports, particularly if the state had a pecuniary interest in the road; under the police power, states and local governments have made regulations as to speed, stops, protection of grade crossings of street and other railroads. Fundamental regulation of rates, however, did not begin until the seventies; and regulation of rolling stock and safety appliances and the hours and conditions of labor came later. At present regulation is divided among the Interstate Commerce Commission and a large number of state railroad and public utility commissions. See ACCIDENTS, RAILROAD AND STEAMSHIP; DISCRIMINATION IN RAILROAD RATES; FREIGHT TRANSPORTATION, CLASSIFICATION OF; and under RAILROAD; RAILROADS. A. B. H.

RAILROADS, STREET. Horse Cars.—Surface street railway lines have had an interesting history. In the majority of cities at the present time these roads are operated by one company, controlling the entire system. Originally there was a large number of separate companies, each of which built a short stretch of line. The street railroad system had its beginning before the Civil War. A light, crude, single track was constructed on one or more streets, and horse cars were operated at infrequent intervals. Fares, ranging

from seven to ten cents for a single ride, were charged.

Other Power.—As the cities increased in area and population, and the demand for more rapid service ensued, experiments were made with other forms of motive power. Steam "dummies," or cars operated by a steam engine built into the forward end, were tried, but aroused considerable opposition because they frightened horses. Another system extensively tried and still used in some places was the cable road; cars were drawn by a mechanical grip affixed to the bottom of the car which, when it was desired to start the car, gripped a cable running in a slot in the middle of the track. The car thus was drawn along by the cable, which was, in turn, driven by engines in power houses located at regular intervals along the line. This system of propulsion was unsatisfactory because it was impossible to drive cars except at one speed, because the cars started with a violent jerk, because it was dangerous and also because the cost of construction, up-keep and operation was extraordinarily heavy.

Storage batteries have been repeatedly tried, and are now giving satisfactory service on lines with light traffic in New York City and elsewhere.

Electric Power.—The introduction of electricity as motive power for surface street railway lines began about 1890. Within a few years the older methods of transportation were practically superseded, although at the present time a few horse cars are still operated in New York City and other places (1914). The development of electric traction since that time has been rapid. The earlier cars, which were small, were soon superseded by larger and more speedy equipment. The industry has passed through an era of rapid development, carrying complex financial and technical problems.

Franchises.—In addition to construction questions most of the street railway systems have been forced to meet important questions concerning franchises. In many of the western cities this class of corporation is granted a limited term franchise, running for a specified period, ranging usually from 20 to 50 years. The expiration of these franchises leads, first, to a period of doubt and uncertainty during which the properties of the corporations fall into disrepair and the service becomes antiquated; and, finally, to an adjustment under which a new franchise is given for another period of years.

Various solutions of this franchise problem have been worked out. In Chicago an excellent franchise is in force, by which the city receives 55 per cent of the net earnings of the corporation after a sum, equivalent to five per cent, has been set aside to pay the interest upon the actual physical value of the property at the time of the granting of the fran-

chise, together with such increases thereto as may be approved by a Board of Supervising Engineers created to administer, in the interests of the public, the railways of that city. This franchise is, in a sense, self-renewing, for provisions are inserted looking towards the automatic readjustment of conditions at the expiration of the period of years for which it is granted.

A very similar solution to the franchise difficulty was secured in Cleveland in 1911, although in this case the city chose to lower the rate of fare by progressive stages rather than to share in the profits of the company upon a fixed rate of fare, as in the case of Chicago. Still other solutions are being worked out or have been devised in the case of other western cities. The state of Wisconsin has endeavored to secure the advantages of a limited term franchise without subjecting the people to the inevitable disadvantages which arise because of the uncertainty and confusion attendant upon the renewal of franchises. This has been done through the use of an "indeterminate permit," which, in effect, gives a corporation a franchise lasting during good behavior.

Taxation.—An important corollary of the franchise question is taxation. In most cities street railway companies pay taxes upon their physical property in the same manner as private individuals or other classes of corporations. It is coming to be recognized, however, that such taxation, where the companies are under strict regulation as regards service, fares, and earnings, is in reality, an indirect method of taxation upon the people as a whole, since the street railway company must include the amount of the tax as a portion of its rate of fare.

Capitalization.—The process of consolidation of the several street railway lines operating within a given city, into one system, was, in most cases, attended by the injection of a large amount of "water," or capitalization in excess of the physical value of the property. This over-capitalization in certain cities, such as New York, reached the point of a national scandal. Electric railway officials were called upon by their stockholders to earn dividends upon this enormous capitalization. The result of this demand was that it was necessary for them to curtail service and the privileges, such as free transfers, etc., which might otherwise be extended to the patrons of the road.

The evil of over-crowding of cars, inadequate service, the failure to grant transfers, and similar matters contributed more than anything else to the movement which led to the establishment of the public service commissions and the local boards of rapid transit. These bodies have undertaken, in behalf of the public, to require corporations to give adequate service and proper rates of fare. In doing this they have worked upon the principle that the stockholders are entitled only to a fair rate of

return upon the actual value of the property, regardless of its capitalization. The law creating the public service commission, in the majority of cases, prohibits the issue of securities except for money or property of equal value, and gives to the commission the power to disapprove security issues, where this principle is not observed, as well as the right to approve or disapprove of proposed consolidations or other changes in corporate relations.

See CITY PLANNING: FRANCHISES, CORPORATION; INTERURBAN LINES; MUNICIPAL GOVERNMENT. FUNCTIONS OF; MUNICIPAL OWNERSHIP; PUBLIC SERVICE CORPORATIONS.

References: "Electric Railway Transportation" in *Am. Acad. of Pol. and Soc. Sci., Annals* (Jan., 1911); H. F. Parshall and H. M. Hobart, *Electric Railway Engineering* (1908); A. B. Herrick, *Practical Electric Railway Handbook* (1906); J. R. Cravath, *Electric Railways* (1908); B. J. Arnold, *Chicago Transportation Problem* (Jan., 1911); A. E. Pinanski, *Street Railway System of Metropolitan Boston* (1908); A. L. Rosenberger, *Street Railway Law* (1894-1901), *Commercial and Financial Chronicle, Semi-Annual Electric Railway Supplement, Municipal Franchises* (1911); Lee Merriweather, *Street Railway Franchises* (1896); Ford, Bacon and Davis, *Report Philadelphia P. R. T.* (March, 1911); A. B. Herrick and E. C. Boynton, *Am. Electric Railway Practice* (1906); F. W. Johnson, *Prevention of Accidents* (1910); G. F. Deiser & F. W. Johnson, *Claims, Fixing Their Values* (1911); T. Conway, Jr., *Am. Acad. of Pol. and Soc. Sci., Annals*, Sept., 1904, Jan., 1911, "Traffic Problems of Interurban Electric Railways" in *Journal of Accountancy*, VI, VII (1908-1909); *Am. Railway Investments* (annual); *Electric Railways Journal* (weekly); *Am. Year Book*, 1910, 549; *ibid*, 1911, 563; *ibid*, 1912, 548.

THOMAS CONWAY, JR.

RAILROADS, TAXATION OF. See TAXATION OF RAILROADS.

RAINES LAW. The New York liquor tax law of 1896, so called from its author, Senator John Raines, the important provision of which prohibited liquor selling on Sunday except in hotels, which must have at least ten bedrooms. It resulted in turning hundreds of saloons into "Raines law hotels" which are said to have become houses of assignation and prostitution.

O. C. H.

RANDALL, SAMUEL JACKSON. Samuel J. Randall (1828-1890) was born at Philadelphia, October 10, 1828. He entered business, but his tastes drew him into politics, and for four years he was a Whig member of the city council. On the break-up of the Whig party, in 1856, he became a Democrat, and in 1858 was elected to the state senate.

On the outbreak of the Civil War he enlisted in the Union army, but in 1862 was elected to Congress, and served continuously in the House from 1863 until his death. In 1874 he was made a member of the committee on rules, and in 1875 defeated a Republican attempt to reenact the "Force Bill" of 1871 by unprecedented pertinacity in filibustering, holding the floor for three days. On the death of Michael C. Kerr, in 1876, he was chosen speaker, filling the office until March, 1881. His attitude in the Hayes-Tilden controversy was largely responsible for breaking down the Democratic opposition to the completion of the count. In 1880 he was an unsuccessful candidate for the Democratic nomination for President. Throughout his public career he was a protectionist, and little opposition was made to his successive elections. In 1884 and 1886 the "Randall Democrats" joined the Republicans in defeating the Morrison bills for horizontal reduction of duties. He died at Washington, April 12, 1890. See SPEAKER OF THE HOUSE. References: M. P. Follett, *Speaker of the House* (1896); W. A. Dunning, *Reconstruction* (1906), 281, 237; E. E. Sparks, *National Development* (1907), 129, 303.

W. MACD.

RANDOLPH, EDMUND JENNINGS. Edmund J. Randolph (1753-1813) was born at Williamsburg, Va., August 10, 1753. He was admitted to the bar, and in 1775 was for a short time one of Washington's aides. He was a member of the Virginia constitutional convention of 1776, and the first attorney general of the state; and from 1779 to 1782 was a member of Congress. In 1786 he succeeded Patrick Henry as governor of Virginia, attended the Annapolis convention, and was a delegate to the federal convention of 1787, where he submitted what is known as the "Virginia plan" (see). He was not satisfied with the Constitution, and declined to sign it, but as a member of the Virginia convention worked for its ratification. In 1788 he resigned the governorship and entered the assembly, where he was on a committee to codify the state laws. In September, 1789, he was appointed Attorney General of the United States. In this office he prepared a report on the judicial system, appeared in the case of *Chisholm vs. Georgia* (2 *Dal.* 419) and issued a pamphlet, under the pseudonym "Germanicus," against the Democratic clubs. In January, 1794, he succeeded Jefferson as Secretary of State, but resigned in 1795 as the result of charges of bad faith in the negotiations with France. He published a *Vindication* (1795) of his course. He was one of the counsel for Aaron Burr in 1807. He died in Clarke county, Va., September 13, 1813. See STATE, DEPARTMENT OF. References: M. D. Conway, *Omitted Chapters of History Disclosed in the Life and Papers of Edmund Randolph*

(1888); M. Farrand, *Records of the Federal Convention* (1911); R. Hildreth, *Hist. of the U. S.* (1849-56), III, IV. W. MACD.

RANDOLPH, JOHN. John Randolph was born at Cawsons, Virginia, June 2, 1773, and died in Philadelphia, June 24, 1833. Left an orphan at a tender age, young Randolph's education was committed to a stepfather, St. George Tucker, who took the greatest interest in the boy. He was sent to William and Mary, Princeton and Columbia colleges and he "read law" in Philadelphia under Edmund Randolph (*see*), and returned to Virginia to become a planter-politician rather than a lawyer. He began his career at Charlotte Courthouse as an opponent of Patrick Henry, attracted state-wide attention, and was elected to Congress the same year, 1799. In 1801 he was chairman of the committee of ways and means, which position he held until he broke with Jefferson in 1806. From 1806 till 1815 he was leader of the so-called "tertium quids" a small party of independents. Randolph opposed the War of 1812 and became a bitter enemy of the southern school of politicians headed by Calhoun and Clay in 1816. The tariff, internal improvements and broad construction of the Constitution he always ridiculed. Randolph was a member of the House or Senate at irregular intervals between 1819 and 1828 when he became an ardent "Jackson man" and was sent as minister to Russia in 1830, only to return two years later a strong opponent of the President on his nullification policy. See DEMOCRATIC-REPUBLICAN PARTY; TERTIUM QUID; VIRGINIA. References: H. Adams, *John Randolph* (1888); H. A. Garland, *Life of John Randolph* (1850).

W. T. D.

RAPID TRANSIT IN CITIES. When the population of our large cities passes a certain point, the problem of street car transportation begins to assume a serious aspect. The concentration of the central business district within a narrow area, and in many cases the engineering faults in city planning (*see*), which cannot be rectified at this time, cause extreme traffic congestion at certain points, tending to paralyze the transportation system. It becomes imperative when this point is reached, that rapid transit facilities be introduced. This can be accomplished either by the construction of elevated or subway (*see*) lines, or a combination of elevated and subway lines. The problems arising out of traffic congestion have been responsible, to a large extent, for the creation of public service commissions and local boards of rapid transit or supervising engineers. See CITY PLANNING; FRANCHISES, CORPORATION; PUBLIC SERVICE COMMISSIONS; RAILROADS, ELEVATED; RAILROADS, STREET; SUBWAYS AND TUNNELS.

T. C.

RATES. See PRICES AND CHARGES.

RATES, REGULATION OF. Control or termination of rates by a governmental agency, state or federal. See DIFFERENTIALS IN RAILROAD TRAFFIC; DISCRIMINATION IN RAILROAD RATES; EXPRESS SERVICE, REGULATION OF; INTERSTATE COMMERCE COMMISSION; INTERSTATE COMMERCE DECISIONS; LONG AND SHORT HAUL; POOLING IN RAILROADS; PRICES AND CHARGES; PULLMAN CARS; RAILROADS, PHYSICAL VALUATION OF; REBATES; TRAFFIC AGREEMENTS.

F. H. D.

RATIFICATION OF CONSTITUTIONS. See CONSTITUTION MAKING; CONSTITUTION OF THE UNITED STATES, AMENDMENTS TO; FEDERAL CONVENTION.

RATIFICATION OF STATE CONSTITUTIONAL AMENDMENTS. See CONSTITUTIONS, STATE, AMENDMENT OF.

RATIFICATION OF TREATIES BY THE UNITED STATES. Constitutional Provisions.—Under the Articles of Confederation all parts of the treaty making power were exercised by Congress, a vote of nine out of thirteen states being necessary for confirmation. The Federal Constitution declares that the President shall have power "by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senate present concur;" and that "all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land" (Art. II, Sec. ii, ¶ 2, Art. VI, ¶ 2). Under these articles, the President has clearly the exclusive right to negotiate and to propound treaties; but the legislating power is a two-thirds vote of the Senate.

Senate as a Council.—President Washington construed the clause on ratification to mean that: (1) he might and ordinarily would consult the Senate while negotiations were in progress; (2) the decision of the Senate was to be made in a kind of council session while the President was present; (3) he could bring in during the discussion any member of his Cabinet to give information on the pending treaty. None of these methods pleased the Senate, which in 1789-1790 showed unwillingness to discuss any treaty officially, either with the President or with the head of the department; and the President ceased his efforts to bring about this confidential relation. A few times since then, the President has consulted the Senate in advance; Polk ascertained from the Senate in 1846 that it would ratify a treaty for settling the Oregon boundary on the 49th parallel (*see* NORTHWESTERN BOUNDARY CONTROVERSY). Unofficially the President through friends in the Senate finds out whether a two-thirds majority is at hand in favor of provisions which he desires to insert in a

treaty. Of late years the same object has been secured by making prominent Senators members of a commission to negotiate a treaty. Thus the envoys sent to Paris in 1898 to negotiate the treaty of peace with Spain, included the chairman of the Senate committee of foreign relations and two of the other Senators, who might be supposed to know the frame of mind of their fellows.

Discussion by the Senate.—The regular method for dealing with a treaty is as follows: The President sends in the text of the document, commonly with, or followed by correspondence and other papers bearing upon the treaty. The treaty is then referred to the Senate committee on foreign relations, which, if it deems necessary, makes a call upon the President for additional material; such documents as the Senate pleases may be printed confidentially for the use of Senators or as a public document. The committee then considers the treaty in private session at its convenience. It may, and frequently does, invite the Secretary of State, or other officials of the Department of State to appear and explain the provisions of the treaty to the committee; or they may ask for such an opportunity of explanation. Public hearings are sometimes held by the committee, particularly in the case of commercial treaties.

Most treaties are reported to the Senate after a few weeks or months, whether the committee approves them or not; but treaties may, if the committee feels pretty sure that they would not be approved by the Senate, be held indefinitely, and thus perish. The Senate may, at any time, by vote, call for a report from the committee, though that is unusual action. The chairman of the Senate committee on foreign affairs is a kind of parliamentary assistant Secretary of State; and if of the same party as the Secretary, is in close confidential relations with him.

Discussion and Vote.—The Senate almost invariably discusses treaties in executive session, all officials being sworn to secrecy; but some Senator is certain to communicate the proceedings to a reporter, and frequently confidential documents leak out in the same way. Discussion may proceed for days and be renewed from time to time.

Since the Senate has no closure (*see*), an opponent of a treaty may talk against it indefinitely; but eventually it is brought to a vote by recorded yeas and nays. If two-thirds of the members present vote for it, it is then transmitted to the President that he may complete the ratification and proclaim it. If the vote is adverse, that disposes of the matter; as treaties are practically never brought up in the same form the second time.

Amendment.—The Constitution seems to have been framed on the supposition that when the treaty had once left the President's hand, it must be accepted or rejected as a whole;

but in the ratification of the Jay Treaty (*see*) in 1794, the Senate introduced an amendment relating to the West India trade; that amendment was accepted by the British Government, and as the two powers were in unison as to the text of the treaty, it was not thought necessary to refer it a second time to the Senate. In numerous cases since, where amendments have been made by the Senate, the acceptance by the foreign government of the text which the Senate has thus approved is held to settle the authentic text of the ratified treaty.

Later Action of the President.—The President is under no constitutional obligation to exchange ratifications of a treaty which has been approved by the Senate; it does not become a law of the land until it has been thus sanctioned by a joint formal exchange of signatures, and has been proclaimed by the President, it then becomes a part of the file of laws and is published in the next issue of the federal statutes.

See ANNEXATIONS TO THE UNITED STATES; COMMERCIAL POLICY AND RELATIONS OF THE UNITED STATES; INTERNATIONAL LAW, SOURCES OF; JAY TREATY; LAW OF THE LAND; PEACE, CONCLUSION OF; PRESIDENT, AUTHORITY AND INFLUENCE OF; SENATE.

References: J. W. Foster, *Practice of Diplomacy* (1906), ch. xiii; C. H. Butler, *Treaty Making Power of the U. S.* (1902); S. B. Crandall, *Treaty Power* (1904); Francis Wharton, *Commentaries* (1884), §§ 155–161, 383, 505, 506; J. B. Moore, *Digest of Int. Law* (1906), V, §§ 734–780; M. L. Hinsdale, *President's Cabinet* (1911); C. C. Kerr, *Origin and Development of the U. S. Senate* (1895).

ALBERT BUSHNELL HART.

RAW MATERIALS, TAXATION OF. See TAXATION OF RAW MATERIALS.

RAWLE, WILLIAM. William Rawle (1759–1836) was born at Philadelphia, April 28, 1759. His family were loyalists, and removed to New York when the British evacuated Philadelphia. He studied law at the Middle Temple, London, and on his return to the United States, in 1783, settled at Philadelphia and was admitted to the bar. In 1791 he was appointed United States district attorney, and in this capacity conducted the prosecutions arising out of the Whiskey Insurrection of 1794 and 1798. He was also counsel for the first Bank of the United States. In 1798 he was elected to the assembly. During the latter part of his life his professional duties, and those of the numerous learned societies and institutions with which he was connected, absorbed most of his time. His "*View of the Constitution of the United States*" (1825) was held in repute by early constitutional writers, but is no longer of particular importance. In 1830 he was associated with Thomas I.

Wharton and Joel Jones in revising the civil code of the state. He died at Philadelphia, April 12, 1836. Reference: T. I. Wharton, *Memoir of William Rawle* (1840).

W. MacD.

READJUSTER. A party in Virginia advocating repudiation or partial repudiation of the state debt—part of the time a coalition against the old Democratic régime. Its best-known leader was William Mahone, Senator of the United States. A separate party organization was formed in 1879. For a time

(1881–1885) it was in control of the government of the state. See **REPUDIATION OF PUBLIC DEBT**. References: *Appleton's Annual Cyclopdia* (1879 to 1886); J. E. Cooke, *Virginia* (1903), 512. A. C. McL.

REAL ESTATE. An expression loosely used to denote the right or property which one has in lands or any interests in land which are held for life or for a greater estate. The term is often inaccurately used to denote the land, itself, with appurtenances.

II. M. B.

REAL ESTATE, PUBLIC OWNERSHIP OF

Just as the control of a territory sufficient for national life underlies the existence of all states, so the occupancy of particular areas of soil is necessary for all governments. Under the theories of monarchy, particularly when founded on military conquest, land has commonly been treated as the property of the sovereign, to be by him granted outright or on condition of certain services by the occupant. Hence, in England real estate, the property of persons dying without heirs, goes back to the Government, and that rule is ordinarily followed in the United States.

Further, in this country, the original land was actually in the possession of and distributed by governments. Almost all the land titles in the United States can be traced back to grants by the Spanish, French, Mexican, Texan, or Hawaiian Governments, or by Great Britain, one of the English colonies, the United States or a state. Lands necessary for governmental purposes have usually been reserved in making these grants, such as the sites of public buildings and institutions. Beyond that it has been the policy of every colony and state to get the land out of public ownership into private hands, so that at the present day almost no land out of its original grant is held by any state in the Union except Texas and Maine. New York and New Hampshire, however, have recently acquired a few small areas for state forests.

Federal Real Estate.—The United States remains the proprietor of considerable areas of land within the states, particularly in the Rocky Mountain and Pacific Coast region. Out of this land some permanent reservations have been made as follows:

(1) The government forests, which on June 30, 1913, included 187,008,793 acres.

(2) Indian reservations; the land in these technically belongs to the Indians, but the United States from time to time has reduced the reservations, setting apart certain areas actually or nominally at a price per acre to constitute a fund for the benefit of the tribes.

(3) Reservations for government posts and forts. The present policy of the Government is rapidly to reduce these posts. Many of the sites lying within cities have long since been sold or transferred. Of a similar character are the arsenals, armories, ordnance depots, navy yards, lighthouses, and public buildings.

(4) Special reserves of natural scenery, especially the Arkansas Hot Springs, Yellowstone Park, Yosemite Park, Grand Canon of the Colorado, Glacier Park, and three reservations of big trees in California.

(5) The public buildings and grounds in Washington.

State Real Estate.—Besides the small reservations of their original holdings as states, the states more recently admitted have great areas of school land and lands given by the United States for other purposes. Thus, the state of Washington in 1889 received 2,700,000 acres, part of which is still unsold; and the new states of Arizona and New Mexico entered the Union in 1912 with their whole grant for school and other purposes intact. In addition the states have purchased land from time to time for their own needs, particularly for the following purposes:

(1) State forests, of which the Adirondack tract in New York of about 800,000 acres is the only notable example.

(2) State parks and reservations, mostly to commemorate historic events or to preserve historic relics, as the Valley Forge Park in Pennsylvania and the Rufus Putnam house at Rutland, Mass. In several states picturesque areas have been made parks, particularly Mt. Wachusett and Mt. Greylock in Massachusetts, Mt. Ranier in the state of Washington, and the Niagara Falls Park in New York.

(3) Sites for public buildings. In the older states buildings from colonial times are still in use or new ones have been built on the same land, but all the states have bought and are constantly buying land for enlargements, transfers and new sites. The states go into the

market like any private individual. Frequently tracts of land are given them as an inducement to set up such institutions as insane asylums and universities. Failing an amicable purchase, the states under eminent domain (*see*) take possession of any land required for their purposes, the compensation to be fixed by judicial process. The public usually pays considerably more than the ordinary market price for such real estate. Upon the land thus acquired are placed state public buildings and institutions which frequently include large farms. There is a tendency to scatter these institutions through the state, even some state universities being split up into sections which are located at different places.

The states also own the beds of state canals that are in operation, and sometimes discontinued canals, and a few states, especially North Carolina and Georgia, are still owners of the roadbed of pieces of railway which are leased to private citizens.

Municipal and Local Real Estate.—The cities and other local governments obtain necessary real estate in the same manner, by gift, purchase or condemnation, but they own much more valuable real estate than the state governments. In addition to the usual city hall, there are fire houses, public baths, multitudes of schoolhouses, water works, gas works, electric light and power works. The title to the streets is commonly vested in the local government, sometimes in the state, though in considerable parts of New York the abutters own the streets subject to their use for public purposes.

The cities also have immensely valuable real estate in parks and boulevards. Some of them are strung out in systems scores of miles in length as the rings of parks about Chicago and Kansas City. In addition to the large parks, there are the open spots often made by tearing down old buildings (*see* PARKS AND BOULEVARDS).

Some cities own water fronts which enable them to build public docks, which in New York are very profitable to the city. Two cities, Cincinnati and New Orleans, own railroads. Many cities have the title to long lines of aqueduct, in a few cases taking water from outside the state.

In general, public real estate is not treated as a corporation would treat its property. Some cities have no inventory of their own real estate. There is more or less jobbery over the purchase of real estate and sometimes valuable tracts of city property not in immediate use are sold on very disadvantageous terms. Cities in many foreign countries have the right to lay out new streets and take over the whole of every parcel of real estate affected. They then fix the street lines and sell the abutting property, so that cities like Paris and Vienna have been transformed without any expense to the public, which by this process gets the

unearned increment. In America people are very unwilling to trust the municipalities with such responsibility, and propositions to give such authority to city governments have been repeatedly voted down; though, in 1913, in two states the authority had been granted.

See CONSERVATION; EMINENT DOMAIN; INDIAN RESERVATIONS; LAND GRANTS; PUBLIC BUILDINGS; PUBLIC DOMAIN; PUBLIC PROPERTY; PUBLIC WORKS, NATIONAL, STATE AND MUNICIPAL; and under PUBLIC LANDS.

References: A. B. Hart, *Actual Govt.* rev. ed., 1910), ch. xviii; E. Washburn, *Am. Law of Real Property* (6th ed., 1902); T. M. Cooley, *Constitutional Limitations* (1903), ch. xx; C. E. Hay, Ed., *U. S. Military Reservations, National Cemeteries and Military Posts* (1904).

ALBERT BUSHNELL HART.

REAL ESTATE TAXES. See TAX, LAND AND REAL ESTATE.

REAL UNION. A real union arises from the indissoluble combining of two or more states under the same monarch, through the deliberate creation of a common constitution for external purposes, though each state may retain distinct internal laws and institutions. An example is Austria-Hungary (*see*). See STATES, CLASSIFICATION OF. Reference: J. W. Garner, *Intro. to Pol. Sci.* (1910), 139.

B. E. H.

REASONABLENESS IN RESTRAINT OF TRADE. Two momentous decisions rendered by the United States Supreme Court in June, 1911, gave the first definitive interpretation of the Sherman Anti-Trust Act (*see*) adopted in 1890. In the agitation against trusts this statute was passed by Congress after considerable debate. It applied only to interstate commerce over which state laws had no control, and for that reason was necessary, there being no common law of the United States; that is to say, nothing can be made criminal without an act of Congress, and in civil matters the common law can only be applied by federal courts to a contract or transaction localized in any state, and then they must apply the common law of that state. It is probable that the Sherman law would have had the same result, and all the doubts and uncertainties of twenty years have been escaped, if Congress had merely said that they meant to apply the principles of the common law to interstate commerce affairs.

The act transcended the common law on its face in two particulars. First, in its first section it forbade every contract, combination in the form of a trust or otherwise, or conspiracy, in restraint of trade among the several states or with foreign nations. The common law did not prohibit contracts in restraint of trade when not intended for the purpose of monopoly and when growing out of a natural and law-

ful transaction; as, for instance, when one tradesman sold out his business and goodwill to a neighbor and agreed not to set up a shop in the same place or for a certain number of years. It is said that the suggestion of inserting the word "reasonable" was brought before the notice of Congress and rejected; and that fact probably led to the earlier more drastic decisions of the Supreme Court in the Trans-Missouri Freight Association case (166 U. S. 290), and the Joint Traffic case (171 U. S. 505), wherein a majority of the Court held that they could not look into the reason of the matter, and were obliged to follow the strict words of the statute, so that any contract or agreement, however natural and proper, was denounced by the statute if it tended to eliminate or did eliminate one person from the trade in question. This led to a state of affairs, particularly after the Northern Securities case (193 U. S. 197) (*see*), which extended the same doctrine to a combination effected through one corporation, wherein no business man or corporation manager could safely make any agreement with a competitor, nor could he consolidate, nor even, possibly, form a partnership, certainly not a corporation of such competitors.

The second point, even more important, in which the Sherman Act transcends the common law is that it put a mandate upon the government of the United States to proceed as party plaintiff, either criminally or civilly, against any obnoxious combination or corporation that might be thought to be liable. The common law on monopoly only gave the right to sue to a person injured by the monopoly, giving him double or treble damages (The Great Case of Monopolies, 7 *Howell's State Trials* 513), and this remedy is authorized in the Sherman Act. But the statute goes further; besides placing the duty upon the government through its district attorneys to bring a bill to prevent violations of the law and to destroy the corporation or combination (U. S. *Statutes* 1890, ch. 647, sec. 4; U. S. *Comp. Statutes* 1901, Tit. LVI B 3200), it provides that any property owned under such contract or by such combination, being in the course of interstate transportation, shall be seized and forfeited to the United States as in the case of property imported contrary to law.

A further provision in section 1, as has been said, declared every contract or combination in restraint of interstate trade to be illegal, and made any person engaged therein guilty of a misdemeanor punishable with fine and imprisonment; section 2 provides that every person who shall monopolize or attempt to monopolize, or combine or conspire with any other person to monopolize any part of interstate trade shall be similarly guilty. What new thing did section 2 add to section 1?

This great statute was interpreted in many decisions during the twenty years after its

enactment with ever increasing stringency. The Supreme Court started in the Knight Case (U. S. *vs.* Knight Company, 156 U. S. 1), with the position that the statute did not cover ordinary manufacture, such as the refining of sugar, although the sugar was sold throughout the United States, a decision which led many people to look upon the statute as a dead letter; the court finally got to a point where they held that even an ordinary bill for goods sold could not be collected by a combination or corporation obnoxious to the statute (Continental Wall Paper Company *vs.* Voight, 212 U. S. 227).

The first effect of the Sherman Law, as is often the case with ill considered legislation, was to compel the very thing which it sought to prevent; that is to say, where before its enactment persons or corporations could make reasonable trade contracts or agreements, after the Sherman law they could not; and the only method, therefore, was to consolidate into one corporation, such as we now term a trust (*see*). Obviously under the common law of conspiracy, one individual, a person, or a corporation cannot combine; at least this was supposed to be so until the Northern Securities case (*see*) where the court decided that they could look through the screen of a corporation to the real intention of the transaction; and could declare a combination which restricted competition, even though under corporate form, to be covered by the statute. Up to that time, therefore, the anti-trust law was a law which stimulated the formation of "trusts." But since the Northern Securities case, even that method did not protect them. It was then believed by most business men that every contract or combination that was engaged in by as many as two persons, or any corporation where more than two pieces of property were put together, was a criminal conspiracy. Business was checked. Then came the Standard Oil and Tobacco cases, based on facts not essentially dissimilar, although in the Oil case it was the New Jersey charter of the corporation that was principally attacked and in the Tobacco case there were many agreements between constituent companies. The Court held that the Sherman Act, having been written by lawyers, must be presumed to be written in the language of the common law; that is to say, that the words "restraint of trade" and "monopoly" were terms of art; and as such bore with them all the connotation of eight centuries' interpretation of those words under the common law. This sensible and almost obvious decision was generally misunderstood by the newspapers, and wilfully by certain politicians, who stated that the Supreme Court had legislated, by interpolating the word "reasonable" before the words "restraint of trade" in section of the statute. They did nothing of the sort; the reasonableness of a contract is only one of the

many tests which the common law applies to matters of monopoly and restraint of trade. The final result, therefore, is that in matters of interstate commerce, where the federal courts have jurisdiction, the common law on these matters is held to be applied by the Sherman Act; with the additions mentioned—that property may be seized; and that the government may intervene as party plaintiff for direct destruction of the combination or corporation; besides the common law remedy of double damages to the persons injured. There has been, however, agitation to amend the act by insisting on its strict grammatical form, and some statutes have been passed to that effect in the states (Michigan. *Public Acts* 1905, No. 329); while, at the behest of President Wilson, Congress undertook in 1914 the amendment of the Sherman Act to reduce as much as possible the area of its “debatable ground.”

See CORPORATION CHARTERS; CORPORATION, PUBLIC; INTERSTATE COMMERCE; MONOPOLIES; SHERMAN ANTI-TRUST ACT; TRUSTS.

References: A. W. Walker, *Hist. of the Sherman Law* (1910); F. J. Stimson, *Popular Law Making* (1910), 176–181; E. P. Prentice, *Federal Power over Carriers and Corporations* (1907).
F. J. STIMSON.

REBATES IN TRANSPORTATION. A rebate is an allowance granted to a shipper as a result of which he secures the transportation of his goods at less than the legal rate. This abatement may be accomplished by such crude devices as underbilling the weight of freight, false classification or a return in cash of a portion of the freight charges. But these more obvious methods have been largely eliminated in recent years and such rebating as exists is more indirect and elusive. Two of the most serious of the recent forms of discrimination have had to do with private cars and industrial railroads. Payments to large shippers for the use of their cars and payments to industrial plants for the use of their connecting tracks under the form of a division of the through rate, have frequently been excessive and have amounted to rebates. Still another opportunity in rebating has existed in the ownership by railroads of coal mines from which they have transported their product in competition with independent operators. It should also be noted that the granting of passes except to certain exempted classes was held to be rebating.

Under the original Interstate Commerce Act it was difficult to secure convictions for rebating, partly because the officer or agent of the carrier was alone liable to conviction and the penalty provided was imprisonment as well as fine, and partly because under the interpretation of the courts, no conviction for rebating was possible unless it could be proved that some competitive shipper had paid the legal rate. These difficulties were removed by the passage

of the Elkins Act in 1903, largely through the effort of the railroads themselves, which made the corporation liable as well as the individual, and the shipper as well as the carrier, abolished the imprisonment penalty and made every departure from the published rate a misdemeanor. By amendment of the Interstate Commerce Act in 1906 the imprisonment penalty of the Elkins Act was restored. The commission was given authority over all services performed by private-car lines and it was provided that all charges for special facilities such as terminals, storage and icing should be separately published. Likewise the commission was given authority to determine a proper switching charge or the proper proportion of a through rate. These provisions, together with the “commodities clause” amendment, which forbids carriers to transport in interstate commerce, except for their own use, products which they own, are material aids toward the permanent solution of the rebate problem.

The commission in a recent annual report (1910) declares that the fight against discriminations is by no means won, and that the practices still remaining are more insidious and difficult of extirpation than open rebating because hidden in contractual arrangements between shipper and carrier.

See DISCRIMINATION IN RAILROAD RATES; INTERSTATE COMMERCE COMMISSION; INTERSTATE COMMERCE DECISIONS; RAILROAD COMMISSIONS, STATE.

Reference: Beale and Wyman, *Railroad Rate Regulation* (1906), chs. xxix, xxx, 869–899.
FRANK HAIGH DIXON.

REBEL BRIGADIERS. An epithet of contempt applied by the radical Republicans in Congress about 1874 to Congressmen from the southern states because a larger portion of the Representatives had been officers in the Confederate army.
O. C. H.

REBELLION. This term, nowhere strictly defined by law, applies to acts and preparations for destroying the existing government of state or nation. It is separated from insurrection rather by nature than by extent. Thus the so called Shay's Rebellion of 1787 in Massachusetts was not so concerted or so long and deep-reaching a movement as the Whiskey Insurrection of 1794 in Pennsylvania. The Dorr Rebellion (*see*) of 1842 in Rhode Island is one of the few historical movements of a determined faction to destroy a state government, except in some of the abnormal reconstructed states (*see* RECONSTRUCTION).

As respects the national government, the term rebellion appears in the Constitution only in the clause on habeas corpus; but treason is defined as levying war against the United States or adhering to their enemies; and rebellion against the United States is

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always treason, though lesser forms of opposition or resistance may also be treason. The power of the President to call out militia to suppress insurrections or to execute the laws of the Union, together with his position as commander-in-chief, gives undoubted authority, without further action of Congress, to resist rebellion by armed force; this authority has been made effective by acts of 1792, 1795, 1807, and 1833, prescribing the terms and manner in which force may thus be applied.

The critical question as to rebellion is whether it existed in 1861, when eleven states of the Union formally and solemnly declared that they were no longer parts of the United States. The words rebellion and rebel in which the Revolutionary patriots rather rejoiced were offensive to the South, and have remained so to this day. Congress in various statutes declared the war to be a rebellion, and the name appears as part of the title of the official series of Civil War Records. Southern writers prefer the term "War between the States," adopted by Alexander H. Stephens for his book; but certainly the northern states neither in theory nor in fact made or accepted

war; they acted solely through the Federal Government of which they considered themselves constituent and unalterable parts.

Congress not only called the war rebellion but applied to it the penalties of rebellion by two confiscation acts in 1861 and 1862, which resulted in the condemnation of a considerable amount of private property belonging to so-called rebels; and at the end of the war a prosecution for treason was entered against Jefferson Davis substantially on the ground that he was a rebel.

See COERCION OF STATES; ORDER, MAINTENANCE OF; SECESSION CONTROVERSY; STATE SOVEREIGNTY; STATES IN THE UNION; TREASON.

References: W. E. Whiting, *War Powers of the President* (1864); J. C. Hurd, *Theory of National Existence* (1881); W. W. Willoughby, *Constitutional Law* (1910); "Federal Aid in Domestic Disturbances" in *Sen. Docs.*, 57 Cong., 2 Sess., No. 209 (1903); A. B. Hart, *Actual Government* (rev. ed., 1908), §§ 55-57; bibliography in Channing, Hart and Turner, *Guide to Am. Hist.* (1904), §§ 231-234; A. B. Hart, *Manual* (1908), §§ 140-141, 149, 156, 157, 160. ALBERT BUSHNELL HART.

RECALL

Genesis of the Recall.—The recall is a process by which the electors may discharge a public officer before the expiration of the term for which he was elected. Both the name, recall, and analogies to the present-day process were familiar in the days of the American Revolution. Thus, because Pennsylvania's delegates to the Continental Congress (*see*) refused to sign the Declaration of Independence, they were "recalled," and other delegates sent in their place. By the Articles of Confederation the power was reserved to each state "to recall its delegates (to Congress) or any of them at any time." In the Federal Convention, Luther Martin protested that under the proposed Constitution, however serious the Senators' or Representatives' offenses, "their states cannot recall them, nor exercise any control over them."

Present Systems.—The eighteenth century recall was applied by representative assemblies to officers whom they had elected. The twentieth century recall transfers this power of removal to the individual voter in the ballot booth. This modern recall first found place in American law in an amendment to the Los Angeles (*see*) charter, 1903, introducing a process of removal the model for which seems to have been taken from the cantonal law long in force in Schaffhausen, Switzerland. It has since been given a place in the new or revised charters of many cities of the Pacific Coast states—particularly in cities which have adopted government by commission (*see* COM-

MISSION SYSTEM OF CITY GOVERNMENT). Iowa, 1907, made it applicable to all cities of 25,000 or over. In South Dakota city officers may be removed by the recall, and in individual city charters it has been introduced in states as unlike as Massachusetts and Florida. In Boston there is a limited power of recall; the mayor is elected for a term of four years, but at the state election one month before the expiration of the second year, there must go on to the ballot the question: "Shall there be an election of mayor at the next municipal election?" If a majority of the city's voters, registered for that election vote yes, any number of candidates, at the ensuing election may compete with the incumbent for his office. By a vote of nearly two to one, the voters of Oregon, 1908, made every public officer of the state, including, thus, judges of every grade, "subject to recall by the legal voters of the state or of the election district from which he is elected." Equally sweeping recall amendments have been adopted in California (1911), Colorado (1912), and Nevada (1912); and in 1912 the voters of the new state of Arizona removed from the recall provision in the original constitution adopted in 1911 the clause excepting elective judicial officers from the operation of the recall. Idaho (1912), Washington (1912), and Michigan (1913), have ratified amendments applying the recall to all elective state officers with the exception of judicial officers. In 1912 the voters of Arkansas and Louisiana rejected recall

amendments, and constitutional conventions in New Hampshire and Ohio refused to submit them to the people.

As applied, for example, to a mayor, the Oregon recall process is as follows. Recall petitions must be filed, bearing the signatures of 25 per cent of the number of electors who voted in the preceding election of mayor. Unless the mayor resigns upon the filing of such a petition, his name, together with that of any candidate duly nominated, goes upon the ballot for the special election. The ballot contains in not more than 200 words the reasons alleged why the present mayor should not continue in office, and the same amount of space is available for him to justify his course in office. If some other candidate receives the highest number of votes, he is declared elected for the unexpired term; the discredited mayor is deemed removed from office upon the qualification of his successor.

Arguments, For and Against.—Advocates of the recall insist that it affords the only dependable method of enforcing upon public officials their responsibility to the people and of preventing grievous harm to the public service by the continuance in office of men believed to be thoroughly incompetent or corrupt. Opponents of the recall, on the other hand, insist that neither signing a recall petition nor casting a ballot in a recall election is likely to represent an informed and unprejudiced judgment on the part of the voters as to the merits of the case, and that the consciousness that he may at any time be haled before such a court is less likely to impel an officer to zealous public service than to a sycophantic cultivation of the voters' favor. It is also objected that the recall would enable small minorities to multiply elections, thus causing needless expense and unsteadiness of administration. After the period of novelty is passed, however, the recall is likely to be invoked only in case of substantial charges; its chief value may prove to be as a preventive or deterrent of faithless service.

The severest criticism of the recall has been directed against its application to judges. They may be thus removed in Arizona, California, Colorado, Nevada, and Oregon.

The first instance of the removal of a judge from office by the recall in the United States was the defeat of C. L. Weller, a police judge of San Francisco, at the election held April 22, 1913. The principal objection urged against him was that in fixing an average amount of bail in cases of attacks of girls less than one-fourth of the average amount fixed in grand larceny cases, he showed a failure to understand the demands of humanity as against the rights of property (*Equity*, Vol. XV, p. 183, July, 1913). The first petition circulated for the removal of a judge (1911) alleged that in presiding over the case of *Oregon vs. Roy McClallen* the judge, "demonstrated his gross in-

competency and unfairness by giving to the jury . . . unfair and erroneous instructions as to law, intended to bias the jury and cause an acquittal." . . . which contributed to and brought about the defeat of the ends of justice.

So serious a menace did President Taft consider the recall of judges that on that ground he vetoed the bill for the admission of New Mexico (*see*) and Arizona (*see*): in the act finally passed it was provided that Arizona's admission should be conditioned upon her voters' ratifying and adopting an amendment to her draft constitution, expressly excepting members of the judiciary from the public officers subject to recall. President Taft insisted that the process of removing judges should afford "opportunities for judicial hearing and defense before an impartial tribunal." He characterized the recall as "destructive of the independence of the judiciary," likely to subject "the rights of the individual to the possible tyranny of a popular majority," and "injurious to the cause of free government," a system "ingeniously devised to subject judges to momentary gusts of popular passion."

Recall of Judicial Decisions.—In the campaign of 1912 Mr. Roosevelt proposed a plan for the recall, not of judges, but of judicial decisions, a plan whereby the people should have the right to recall the decision itself and authoritatively to ratify or stamp with disapproval the constitutional principle underlying the decision. In a speech before the Ohio constitutional convention, Feb. 21, 1912, he said:

If any considerable number of people feel that a decision is in defiance of justice, they should be given the right by petition to bring before the voters at some subsequent election, special or otherwise, as might be decided, and after the fullest opportunity for deliberation and debate, the question whether or not the judge's interpretation of the Constitution is to be sustained.

Colorado is the only state which has adopted the recall of judicial decisions. An amendment to the state constitution, restricting the right to declare laws unconstitutional to the supreme court, and providing a more direct process by which nullified statutes may be constitutionalized, so to say, was submitted under the initiative and adopted by the people in 1912. This amendment virtually authorizes the people by the use of the referendum to order the enforcement of a statute which has been enacted by the legislature and approved by the governor but vetoed by the supreme court.

Advisory Recall of Federal Officers.—The legislature of Arizona in 1912 provided for the extension of the recall to United States Senators, Representatives in Congress, and judges. Holding office under the provisions of the Federal Constitution, these officials are not directly amenable to recall in a state election. The "advisory" recall for which the statute establishes the machinery can be enforced by

no legal process but depends for its effect on the force of public opinion. In the case of the Federal judge, the people are permitted to advise his resignation and at the same time to recommend to the President their choice for the appointment: whether the advice is taken depends wholly on the judge and the President. Against Senators and Representatives, the advisory recall is a much more effective weapon. Candidates for these offices, who are nominated in direct primaries, are given the option of pledging or not pledging themselves to obey an advisory vote of recall; few care to risk prejudicing their chances for nomination by withholding the pledge.

See INITIATIVE; LEGISLATION, DIRECT; REFERENDUM.

References: *U. S. Sen. Doc.*, 61 Cong., 2 Sess. (1910), 603; President Taft, *Veto Message*, August 15, 1911; C. A. Beard and B. E. Shultz, *Documents on Initiative, Referendum and Recall* (1912); W. B. Munroe, *Initiative, Referendum, and Recall* (1912); E. P. Oberholtzen, *Referendum, Initiative and Recall in America* (1912); E. Pomeroy, "The Recall" in *Arena*, XXXVI (1906), 45-6; J. Bourne, "Initiative, Referendum and Recall" in *Atlantic Monthly*, CVIII (1911), 122-130; S. W. McCall, "Representative against Direct Government" in *ibid*, 454-466; B. J. Hendrick, "Recall in Seattle" in *McClure's Magazine*, XXXVII (1911), 647-663; *Am. Year Book*, 1911, 184, *ibid*, 1912, 64-67; Lists of recalls in A. L. Lowell, *Public Opinion and Popular Government* (1913), App. G. H. HAYNES.

RECEIVER. A person (sometimes a corporation) appointed by a court of equity to take charge of and manage property, pending litigation, for the benefit of the litigant owners, stockholders or creditors, as they may prove themselves entitled. In criminal law, one who receives stolen goods from thieves and conceals them. H. M. B.

RECIPROCITY. Reciprocity refers to tariff agreements between nations whereby certain commercial privileges of mutual advantage are granted. Such agreements have been made with increasing frequency since the breaking down of the mediæval policies of national commercial isolation. Countries which were not prepared for the more liberal policy of free trade, were yet stimulated by the acceptance of the reasoning of Adam Smith (1776) and of *laissez-faire* doctrines which made headway early in the nineteenth century; and found it advantageous to modify the severity of protectionism by special agreements with other countries. This may be done either by a commercial treaty or by legislation.

The term, reciprocity, is loosely used in current discussion, being applied to any kind of arrangement whereby some special benefit is supposed to be gained for a nation's trade in

return for a relaxation of its own tariff policy. It may include agreements affecting competitive as well as non-competitive products. It does not necessarily mean the admission of goods free of duty or at low rates, nor does it necessarily involve the disturbance of a protective system. For example, a country exporting agricultural products and possessing undeveloped manufacturing industries which require protection, may make an agreement of reciprocity with another nation which can supply raw material needed in manufactures, to the effect that it will admit the raw materials at favored rates provided that the foreign nation will be hospitable to the exported agricultural products.

The United States has entered into reciprocity treaties with Canada (1854-1866) and with Hawaii (1876-1900). Several other treaties have been negotiated, as with Mexico (1883) and Spain (1884), but have failed to secure ratification by the Senate. Because of these failures and a desire to promote the establishment of a Pan American commercial union, warmly advocated by Secretary Blaine, a change in the method of making agreements was adopted by the McKinley tariff (*see*) law of 1890. Power was given to the President to make concessions in tariff duties, upon satisfaction that certain privileges were granted to the exports of the United States. Under this authority a number of commercial agreements were made with Latin-American countries and also with Germany and Austria-Hungary.

In the tariff legislation of 1894 reciprocity fared ill. It became involved in the question of sugar duties, and there was also lack of support from many tariff reformers who believed that reciprocity treaties which implied the alternative of retaliation, stood in the way of genuine reform. The result was the practical abandonment of reciprocity. The Dingley tariff (*see*) of 1897 reintroduced the principle but made the agreements operative by treaties executed by the Senate instead of by executive proclamation as in 1890. Although treaties were subsequently negotiated, the privileges were used as a club to hold over other protectionist countries rather than as an instrument to bind a group of countries into closer commercial union. In 1909 reciprocity as a special detail of tariff legislation was dropped. In 1911 an effort was made to arrange a reciprocity treaty with Canada, but failed through opposition in that country.

See BRITISH NORTH AMERICA, DIPLOMATIC RELATIONS WITH; TARIFF POLICY OF THE UNITED STATES; TARIFF REFORM.

References: J. L. Laughlin and H. P. Willis, *Reciprocity* (1903), bibliography, treaties and legislation; Library of Congress, *List of References on Reciprocity* (1902); F. E. Haynes, "Reciprocity Treaty with Canada of 1854" in *Am. Econ. Assoc., Publications*, VII (1892), No. 6. DAVIS R. DEWEY.

RECIPROCITY POLICY. Prior to 1815.—From 1789 to 1815, the policy of the United States, like that of other countries, was to favor domestic shipping by imposing higher duties upon goods imported in foreign ships than upon goods carried in American vessels, and by subjecting foreign ships to heavier tonnage taxes than American vessels.

Shipping Reciprocity of 1815.—The policy of discriminating duties and tonnage taxes was modified by act of Congress in 1815, whereby the United States offered to remove its discrimination as regards direct trade with such foreign nations as would cease to discriminate against American shipping and goods.

Indirect Trade.—In 1828, the United States adopted the policy of full reciprocal trade relations as regards the indirect as well as the direct foreign trade. Up to that time, the trade between the United States and any other particular country was open only to the shipping of the two countries.

Canadian Treaty, 1854-1866.—The United States entered into a treaty with Great Britain in 1854 greatly reducing the tariff restrictions upon the trade between the United States and Canada. The economic effects of the treaty were largely nullified by the outbreak of the Civil War in 1861 which tended to decrease our exports to Canada and to increase our imports therefrom. The treaty was denounced by the United States in 1866, and was terminated the next year, partly because exports to Canada had not increased during the treaty's life, but more because of the resentment of the people of the United States against Canada for having sympathized with the southern states during the Civil War. Another reason why the treaty was abrogated was the strong and rising sentiment in the United States in favor of restrictive protective tariffs.

Hawaiian Treaties.—The United States entered into a reciprocity treaty with Hawaii in 1876 which provided for practically free trade between the United States and the islands. This treaty was renewed in 1887; and three years later the islands were annexed to the United States. The purpose of the two treaties with Hawaii was partly economic and partly political.

McKinley Tariff of 1890.—Section three of the McKinley Tariff Act of 1890 placed sugar, molasses, coffee and hides upon the free list, but gave the President the authority to impose stipulated duties upon these articles when imported from any country which placed discriminating duties upon American products. Under this law, executive agreements were made with Germany, Austria-Hungary, four Central American States, Cuba, and with Great Britain as regards her possessions in the West Indies. The effect of the agreements was slight because most of them had been in force barely two years when they were all terminated by the Wilson Tariff Act of 1894.

Dingley Tariff of 1897.—Sections three and four of the Tariff Act of 1897 provided for reciprocity arrangements with foreign countries. By the first part of section three the President was authorized to negotiate reciprocal agreements providing, in the case of countries making compensatory concessions, for the reduction of our tariffs upon argols, crude tartar, wine lees, brandies, spirits, champagne, and sparkling wines, vermouth, paintings, and statuary. The second part of this section authorized the President to negotiate for trade concessions by offering to place upon our free list, coffee, tea, tana beans, and vanilla beans. Section four gave the President power to negotiate reciprocity treaties and he was authorized to make a reduction of 20 per cent in the regular tariff duties to secure concessions by other countries.

The President entered into agreements of limited scope, under section three, with Germany, France, Italy, Portugal and Switzerland. Section four proved ineffective. The President negotiated eleven treaties and sent them to the Senate, where all action was blocked by those opposed to any reduction in the tariff.

Cuban Treaty, 1903.—By treaty concluded with Cuba, in 1903, the United States agreed to take 20 per cent off the duty on all dutiable goods from Cuba, and Cuba consented to admit a long list of enumerated articles at reductions of 25 to 40 per cent, and all other dutiable articles at 20 per cent off her tariff rates. Both countries made these concessions preferential—*i. e.*, not to be granted to any other nation without a similar equivalent. The trade with Cuba has increased rapidly since the treaty became effective.

Maximum and Minimum Provisions of the Payne-Aldrich Act of 1909.—The tariff law of 1909 provided that 25 per cent *ad valorem* should be added to the rates, March 31, 1910, on dutiable goods from each country not previously declared by the President to be treating our imports fairly. The President was fortunately able, as the result of vigorous negotiating, to proclaim within the time limits, that all countries were dealing fairly with American goods.

Proposed Canadian Reciprocity of 1911.—The most important reciprocity arrangement ever proposed by the United States was offered to Canada in 1911, by an agreement to be carried into effect by legislative action of both countries. It was submitted by President Taft to Congress at the close of January, 1911. It was adopted by the House of Representatives, but the Senate failed to act before the close of the session, March 4. Accordingly, the President called Congress in special session in April, 1911, and the agreement was finally passed by Congress and approved by the President, July 26. The Liberal ministry in Canada favored the measure but the Opposition made it an issue,

and in the resulting general elections the ministry was defeated and the plan was thereby set aside.

See CANADA; COMMERCE, AMERICAN, MOVEMENT OF; GREAT BRITAIN, DIPLOMATIC RELATIONS WITH; TARIFF POLICY OF THE UNITED STATES.

References: G. G. Huebner, "Tariff Provisions for Promotion of Foreign Trade of the United States" in *Am. Acad. of Pol. and Soc. Science, Annals*, XXIX (May, 1907), 498-514; "Reciprocity with Canada" in *Sen. Doc.*, 51 Cong., 3 Sess., No. 862 (1889); W. H. Taft, "Reciprocity with Canada" in *Journal of Pol. Econ.*, XIX (July, 1911), 513-526; H. P. Willis, "International Aspects of Reciprocity" in *ibid*, 527-541; F. W. Taussig, "Reciprocity with Canada" in *ibid*, 542-549; E. V. Robinson, "Reciprocity and the Farmer" in *ibid*, 550-566; G. C. White, "The Proposed Agreement as Viewed by the Farmer" in *ibid*, 567-573.

EMORY R. JOHNSON.

RECLAMATION OF PUBLIC LANDS. For the reclamation of swamp or overflowed lands all such lands were granted to the states within which they lay, 1849-50, and the proceeds were to be used for the building of levees and drains. Some 64,700,000 acres had been patented before 1912, but little has been done by the states. For the reclamation of desert land the act of 1894 granted 1,000,000 acres to each state that would irrigate, reclaim, and cause to be occupied the same. The terms were later extended to the territories, and further grants have been made. To June 30, 1912, 7,301,036 acres had been applied for, 3,291,231 segregated, and 473,999 patented to the states. National reclamation of desert land dates from the act of June 17, 1902. All moneys received from the sale of lands in certain of the western states and territories, except the five per cent fund, are set apart as a reclamation fund. Lands susceptible of irrigation may be withdrawn from public entry by the Secretary of the Interior. They then may be entered only under the homestead law, without commutation, and the maximum area may be reduced to an acreage suitable for the support of a family. Units may be as small as ten acres, but in most cases they are from forty to eighty. Patents issue after the usual homestead proof and the irrigation of at least one-half the tract. The charge for the water rights on all land in the project is based on the cost and charge for operation and maintenance of the works. Prior to June 30, 1912, 28 primary projects had been undertaken, and \$72,234,486 net invested. From present works 1,143,000 acres can be irrigated, and 3,100,000 are within the projects under way. In 1910 Congress advanced \$20,000,000 for this fund.

See AGRICULTURE, RELATION OF GOVERNMENT TO; CONSERVATION; IRRIGATION.

References: General Land Office, *Laws and Regulations Relating to the Reclamation of Arid Lands by the U. S.* (1912); National Conservation Commission, *Report*, 11 (1909), 85; C. R. Van Hise, *Conservation of Natural Resources* (1910), 185-207; Director of the Reclamation Service, *Reports*.

PAYSON J. TREAT.

RECLAMATION SERVICE. The Reclamation Service was established by act of Congress approved June 17, 1902, for the purpose of constructing irrigation works for the reclamation of arid lands. It is organized as a bureau in the Department of the Interior (see INTERIOR, DEPARTMENT OF) and is supported by the receipts from the sale of public lands in the sixteen western states. The total amount allotted for the reclamation fund from 1902 to December 31, 1910, was \$59,257,000. During that period 34 projects were undertaken in 16 states (see PUBLIC LANDS). From time to time as funds have become available and as the preliminary investigations of the several projects have shown their feasibility and practicability, the construction of projects has been authorized and allotments have been made in order to provide the funds necessary to carry on the work. In 1910-11, a special loan was authorized, in order to provide for the completion of works then in progress, beyond the funds available from the sale of lands. See CONSERVATION; IRRIGATION; PUBLIC LANDS. References: Secretary of the Interior, *Annual Reports*; Director of the Reclamation Service, *Annual Reports*.

A. N. H.

RECOGNITION. The rules of the national House of Representatives provide (Rule XIV, sec. 2) "When two or more Members rise at once, the Speaker shall name the Member who is first to speak." In early days the speaker recognized the member first arising, and there was also an appeal from his decision; but as business became more complicated and as it became necessary to follow an order of business, "recognitions, instead of pertaining to the individual Member, necessarily came to pertain to the bill or other business which would be before the House under the rule regulating the order of business" (Hinds, *Manual*, Sec. 737). In 1879 the committee on rules declared that in the nature of the case discretion must be lodged in the presiding officer, and in 1881 the speaker declined to allow an appeal, a practice which still continues. The speaker's power is not entirely arbitrary; for under the rules of the House he must recognize certain members under certain circumstances. For example, "When the order of business brings before the House a certain bill he must first recognize, for motions for its disposition, the Member who represents the committee which has reported it" (*ibid*, 738). The speaker is guided by his "list" of those who have expressed their desire

to speak; but he is not bound by it. In general debate, the chair commonly alternates between those favoring and those opposing the measure under consideration. When a person is recognized, the speaker calls him, not by name, but as "the gentlemen from _____" giving the name of the state. The power of recognition is one of the sources of the speaker's great power and authority. See RULES OF CONGRESS: RULES OF LEGISLATIVE BODIES; SPEAKER. References: A. C. Hinds, *House Manual* (1909), index; M. P. Follett, *Speaker of the House of Rep.* (1896). A. C. McL.

RECOGNITION OF CONFEDERATE STATES OF AMERICA. See CONFEDERATE STATES, RECOGNITION OF.

RECOGNITION OF NEW STATES. The admission of new states to the so-called family of nations depends upon the action of the states already members of the international family. A state may have a *de facto* existence and may enter into certain relations with the states which are members of the family of nations, without receiving the recognition which is necessary in order that the state may have full international standing. G. G. Wilson says:

The basis of this family of nations or international circle, which admits other states to membership, is historical, resting on the policy of the older European states. These states, through the relations into which they were brought by reason of proximity and intercourse, developed among themselves a system of action in their mutual dealings; and international law, in its beginning, proposed to set forth what this law was and should be. This family of states could not permit new accessions to its membership, unless these new states were properly constituted to assume the mutual relationships, and as to the proper qualifications for admission in each case the states already within the family claim and exercise the right to judge.

Other states were from time to time and in various ways recognized as members of the family of nations. The family was at first European, and its law European. Gradually the group admitted new members; these new members acknowledged the existing law as binding.

Recognition Is Political.—The recognition of a new state by a state or by states already members of the family of nations is a political act and not dependent upon the area, population, age, power, or other attributes of the state recognized. The United States was the first non-European state admitted to the family of nations. Other American states were gradually admitted. In 1856 the five great powers recognized that the Turkish Empire was entitled to "the participation in the advantage of European public law and concert." Japan, a *de facto* state for many years, had only a qualified international status and American and European subjects within Japanese territory enjoyed extraterritoriality and other special privileges. In 1894 the United States made a treaty with Japan which with those of other powers, was to become operative in 1899

and to continue 12 years. This treaty recognized the full international status of Japan.

The Japanese ministry in 1899 said:

The revision of the treaties, in the sense of placing on a footing of equality the intercourse of this country with foreign states, was the basis of the great liberal policy adopted at the time of the restoration, and that such a course conduces to enhance the prestige of the Empire and to promote the prosperity of the people is a proposition not requiring demonstration.

The United States courts hold that when the political branch of the Government has recognized a state all other departments are bound thereby (*Jones, Admr. vs. United States*, 137 *U. S.* 202 [1890]).

Formal and Informal Recognition.—The method of recognition may vary according to circumstances. If the recognition is of a state which has had a considerable period of *de facto* existence it is usually by a formal act such as the grant of equal rights by treaty or the admission to full privileges of the international family by a group of states. If recognition is of a political unity whose *de facto* status is uncertain, as of a newly organized political unity which has not existed for a sufficiently long period to make its continuance assured, less formal methods are usually employed. An official salute of the flag which has been raised by the new aspirant for statehood, the grant of an exequatur to a consul or the official reception of a diplomatic agent representing the political unity may be sufficient. The minister plenipotentiary of the recently established Republic of Panama in presenting his letter of credence to the President of the United States on November 13, 1903, said:

Mr. President: In according to the minister plenipotentiary of the Republic of Panama the honor of presenting to you his letters of credence, you admit into the family of nations the weakest and the last-born of the republics of the New World.

The President, after mentioning the attitude which the United States had assumed in recognizing other South American states said:

And it is equally fitting that the United States should, now as then, be the first to stretch out the hand of fellowship and to observe toward the new-born state the rules of equal intercourse that regulate the relations of sovereignties toward one another.

Date.—In cases where the new state has broken off from an established state and is recognized by other states, it is customary to date the beginning of the new state from the time when it declared its independence of the parent state. The Supreme Court of the United States has said of the independence of the United States, that it

originated from and commenced with the declaration of Congress, on the 4th of July, 1776 and that no other period can be fixed on for its commencement, and that all laws made by the legislature of the several states, after the Declaration of Independence, were the laws of sovereign and independent governments (*Ware vs. Hylton*, 3 *Dallas*, 199).

Previous Obligations.—When a state is formed by the voluntary union of states already recognized as members of the family of nations, recognition of the new state is usually accorded as a matter of course and prior international obligations of the parts of the new state are for the most part taken over by the new state.

When states are formed by the dissolution of an established state, the new states are generally recognized at once. The obligations resting on the state from which the new states are formed are usually assumed under agreement by the new states if the parts of the prior state have not acted separately in international negotiations before their dissolution (as in the case of Sweden and Norway before their division in 1905).

Recognition of a belligerent community or of a political unity which is in opposition to the state of which it has formed a part may be premature and may be regarded as an unfriendly act by the established state.

No Withdrawal.—Recognition once granted cannot be withdrawn and the recognized state can claim the rights to which it would be entitled under international law. Sometimes recognition is granted under condition that the recognized party fulfil specified obligations or observe certain conditions. The recognition may not be withdrawn because the recognized state has failed to meet the obligations or conditions, but other measures may be taken, even war measures, to compel fulfilment.

Parent State.—On recognition of a new state the recognizing state is bound to accord to the state which it has recognized the rights to which a state is entitled under international law. If the new state is formed by separation from an established state the parent state is relieved of liability for the acts of the recognized state; and the recognized state may be under obligations to assume certain liabilities which formerly rested upon the established states, *e. g.*, certain obligations resting upon the territory now within the limits of a recognized state. Other states are bound to respect the consequences of the recognition so far as these affect the relations between the recognizing and recognized states. Recognition by one state does not, however, involve another state in obligation to accord recognition. A parent state would have little ground to regard as unfriendly a recognition by any one state, after

recognition had been accorded by a large number of other states.

The policy of the United States in regard to recognition has varied according to circumstances. Sometimes recognition has been early, as in the case of Panama in 1903. Some states were very slow in recognizing the existence of the United States of America.

Relations Short of Recognition.—The recognition of a change in the form of government or of other political changes may require state action even though no new state may be established. A monarchy may change to a republic or other governmental changes may occur which while working no change in international responsibilities and liabilities may raise questions as to what party in a state is legally responsible for state action and it may be necessary for foreign states to decide with which government they will transact international business. Thus, while the continuity of the state may be admitted, there may be doubt as to the person properly entitled to represent the state. American instructions to diplomatic officers have often been to the following effect; "As soon as you are satisfied that the new government is in possession of the executive forces of the nation and administering the public affairs with due regard for the obligations of international law and treaties, you will enter into full relations with it." It may be and often is necessary to enter into relations with the *de facto* government without in any way affirming or denying its right to be. This often happens when a state has many interests in another state where conditions are disturbed. The subject of recognition has received much attention in American diplomatic negotiations; and was brought to public notice by the non-recognition by the United States of a government set up in Mexico by revolution (*see* MEXICO, DIPLOMATIC RELATIONS WITH).

See BELLIGERENCY; DIPLOMACY AND DIPLOMATIC USAGE; INTERNATIONAL LAW, INFLUENCE OF THE UNITED STATES ON; PROTECTORATES, INTERNATIONAL.

References: J. B. Moore, *Digest of Int. Law* (1906), I, 72-254; W. E. Hall, *Int. Law* (1909), 82 *et seq.*; G. G. Wilson, *Int. Law* (1910), 24-30; F. L. Paxson, *The Independence of South American Republics* (1903); bibliography in A. B. Hart, *Manual* (1908), § 182. GEORGE G. WILSON.

RECONSTRUCTION

The Problem, 1862-1870.—The governmental problem of reconstruction arose from the necessity of establishing civil governments and restoring suspended federal relations in the states which seceded in 1861 and were conquered. The easiest method would have been to main-

tain military control, until the disorganization caused by war was at an end, and to restore full self-government only so soon as the inhabitants appeared ready to act with complete loyalty. But any such policy was impossible, since it involved ignoring the existence of the

southern states as "states," which would have been inconsistent with the avowed purpose of the war. Lincoln's inaugural address laid down the doctrine that secession as a legal act was null and void; and Congress, in July, 1861, not only reiterated this theory, but declared that the object of the war was to restore the Union with all the rights of the states unimpaired. All the official acts of the United States government from Lincoln's proclamation of April 15, 1861, to the decision of the Supreme Court in the Prize Cases (*see*), including the confiscation acts and other laws of Congress, assumed to deal with rebellious individuals within certain states and ignored the states as such. The whole war was fought on the avowed theory that, legally, nothing had been done which in any way took the Confederate States out of the Union. They were prevented from occupying their proper federal relations only by the rebellion of their inhabitants (*see* SECESSION CONTROVERSY). It was an inevitable corollary that reconstruction must somehow bear a federal character. In the effort to discover such a process, great diversity of opinion developed, owing to the absence of anything in the Constitution itself which threw light upon the problem of restoring the suspended functions of a state. The only clause which seemed to contemplate possible federal intervention was "The United States shall guarantee to every state in this union a republican form of government" (Art. IV, Sec. iv). This might be interpreted to warrant intervention against usurpation or revolution, and hence upon this slender basis of constitutional authority, the actual process of reconstruction purported to rest.

Constitutional Theories.—The principal theories advanced to serve as bases for reconstruction were as follows. (1) The self-reconstruction theory. This was held by Lincoln and his successor Johnson, and was a direct outgrowth of the theory of the legal nullity of secession. If the states were unaffected legally by secession, they might resume their normal functions in the Union as soon as their loyal inhabitants were able, under federal protection, to control their governments. Lincoln accordingly held that the duty of affording this protection to loyal men in the South rested with the executive and was an outgrowth both of his power as commander-in-chief and of his power to pardon. (2) The theory of forfeited rights. This was the theory ultimately adopted by Congress and by the Supreme Court. It held that the states did not, through the rebellion of their inhabitants, cease to be states in the Union, but forfeited their rights as states. It belonged, accordingly, to the Federal Government, to prescribe by law the terms and the method of their reinstatement. This theory was ingeniously contrived to leave a semblance of federalism but to place all final power in the hands of the legislative

department. (3) The theory of state suicide. This theory was brought forward by Senator Sumner (*see* SUMNER, CHARLES) during the war. It maintained that the states, by taking the unconstitutional step of seceding had committed suicide and were simply territories at the disposal of the Federal Government. In later restatements of his theory, Sumner made it appear similar to the preceding one. (4) The "conquered provinces" theory. Thaddeus Stevens (*see*) proclaimed that the southern states had rebelled in fact, whatever the theoretical impossibility of secession might be, and that they were actually conquered as rebels and retained no constitutional rights whatsoever. The territory of the South was conquered soil open to any treatment which commended itself to the victorious United States. Constitutional rights of individuals and of states ceased to mean anything when they were in full revolt. This theory described the facts exactly and would have given a free hand to the Federal Government, but it was far too radical to gain general acceptance and was practically discarded by its author for the theory of forfeited rights. It is to be observed that the last three theories agreed in regarding reconstruction as a subject for legislative determination and differed accordingly from the first theory, which left all to the discretion of the executive and the action of loyal individuals.

Presidential Reconstruction under Lincoln, 1862-1865.—The first theory was put into operation early in the war. Immediately after the secession of Virginia, the inhabitants of the western counties met in convention, repudiated the action of the Confederates and assumed to reestablish a loyal state government. The governor, legislature and members of Congress chosen by this reorganized "Virginia" were recognized by the President and by Congress. In 1862 this government gave the consent of "Virginia" to the erection of West Virginia (*see*) as a separate state and, even when thus reduced to a few counties, the loyal "Virginia" continued to be recognized by Lincoln as the legal state government. This action served as a model for Lincoln's later policy. In 1862 he appointed military governors in Louisiana, Arkansas and Tennessee and encouraged the loyalists in those states to begin civil government. In December, 1863, he went further by issuing an amnesty proclamation intended to pave the way for reconstruction by providing a test of "loyalty." All persons except the higher officials in the Confederacy, or those who had left the United States service to aid the rebellion or who had treated colored troops otherwise than as prisoners of war, might, on taking an oath of allegiance, receive full pardon. The oath included a pledge to support all laws and proclamations affecting slavery hitherto issued. Lincoln further announced that when a

number equal to one-tenth of the qualified voters of 1860 had taken the oath, they might reconstitute a state government which would be recognized by the executive as the true government of the state.

Although Lincoln included in the proclamation a reminder that he did not pretend to interfere with the right of Congress to admit or reject Senators and Representatives, he soon showed that he did not intend to permit any interference with the plan of reconstruction thus established. In the session of 1864 Congress passed a bill overriding the Amnesty Proclamation (*see*) in several respects, chiefly through requiring a more stringent oath, a majority of "loyal" men before the beginning of reconstruction and the consent of Congress before the state government could be recognized. This measure was killed by Lincoln through a pocket veto. He explained that he was unwilling to overthrow civil governments already begun or to render the process of restoration more difficult by confining it to one method. Under the terms of the Amnesty Proclamation three southern states carried through a process of reconstruction and "ten per cent" governments were set up in Arkansas, Louisiana and Tennessee, much to the discontent of Congress, which by a joint resolution of February 8, 1865, prevented electoral votes from any of them from being counted in the presidential election then pending.

Presidential Reconstruction under Johnson, 1865-1866.—After Lincoln's assassination, the process of reconstruction under executive protection was carried through by President Johnson. On May 29, 1865, he replaced Lincoln's Amnesty Proclamation by a new one excluding more classes of individuals from the privilege of taking the amnesty oath, but authorizing such to apply directly to the President himself. Johnson did not reissue the reconstruction clauses of the earlier proclamation but continued Lincoln's policy of appointing governors and hastening reorganization in the southern states by the loyalists. By the autumn of 1865 every one of the seceded states was reconstructed except Texas which followed in 1866. Virginia still remained under its voluntary reconstruction of 1861; Tennessee, Arkansas and Louisiana were under Lincoln's "ten per cent" governments, and the remaining states were under the "Johnson governments." Each state abolished slavery, revised its constitution and set up a state government. Each chose Senators and Representatives. So far as the action of Lincoln and Johnson could bring it about the states of the South were ready to resume their suspended constitutional functions.

The theory on which the war had been begun was now carried to its logical conclusion. An insurrection of individuals had been suppressed and loyal persons had been assisted

in setting up governments. It is to be observed, however, that neither Lincoln nor Johnson strictly followed out the theory. It was not until April 2, 1866, that Johnson issued a proclamation declaring the war at an end in ten states, adding Texas on August 30. Even then troops were not wholly withdrawn nor martial law formally terminated. Federal courts began to hold sessions (*see*) but in certain districts only. The Freedmen's Bureau, established in March, 1865, continued to exercise powers of military control over freedmen, refugees and abandoned lands. Clearly the authority of the new governments was not complete. They were deemed able, however, to exercise constitutional powers in one important respect for it was through the ratification by these "presidential" state governments, of the Thirteenth Amendment (*see*) abolishing slavery, that it became part of the Constitution on December 18, 1865.

This action showed that the southern voters accepted the chief result of the war but their attempts in 1865 and 1866 to legislate for the freedmen indicated that anything beyond the termination of mere chattel slavery was not in their minds. In nearly every state a special code applicable to negroes gave them a subordinate civil status, subjected them to restrictions in business and in contracts, and provided a system of penalties for vagrancy and minor offences, which, taken with apprentice laws, seemed to establish compulsory labor as their normal condition. Considered as a governmental process the "self-reconstruction" plan was certainly hasty and wanting in firmness of control. Whether in spite of its drawbacks it might have worked satisfactorily, cannot be proved owing to the fact that it was scarcely completed before it was superseded by another and a wholly different scheme.

Fourteenth Amendment, the Congressional Compromise, 1866.—The Thirty-ninth Congress which met in December, 1865, found the results of the Lincoln-Johnson theory before it and at first was inclined to accept them provided certain safeguards could be secured. In order to control the situation each house excluded all members elected from the seceded states and refused to admit them until Congress should, by law, declare the states entitled to representation. To protect the freedmen from the operation of the vagrancy and apprentice laws and to prevent "disloyal" action on the part of the former Confederates two important acts were passed over the veto of the indignant Johnson and a fourteenth constitutional amendment was offered. A Civil Rights Act (*see*), April 9, 1866, declared that civil equality was a result of the Thirteenth Amendment; and a second Freedmen's Bureau Act, July 16, 1866, empowered that organization to protect freedmen from all unjust discrimination.

The proposed amendment contained four clauses. The first protected all citizens of

the United States from discrimination at the hands of the states; the second provided for the reduction of the representation in Congress of any state which disfranchised any of its citizens except for rebellion or crime; the third excluded from office any who had left the service of the United States or any state to serve the Confederacy; and the fourth safeguarded the United States debt from repudiation while prohibiting the payment of any debt incurred in aid of the rebellion. Before the end of the session, the "ten per cent" government of Tennessee ratified the amendment and was immediately declared entitled to be represented in Congress. This showed that Congress was ready to recognize the "presidential" governments on condition of their ratifying the Amendment, but this plan encountered the violent opposition of President Johnson, who resented seeing his policy blocked. In the autumn of 1866 and the winter of 1867 nearly all the northern states ratified the amendment but the southern states refused to imitate Tennessee, and, without their coöperation, the necessary three-fourths of the states could not be obtained. When Congress met for its second session it was seen that the plan of exacting safeguards was a failure (see **FOURTEENTH AMENDMENT**).

Congressional Reconstruction Acts, 1867.—In the year 1867, the majority in Congress threw entirely aside all that had been accomplished and entered upon a wholly new method of reconstruction. This embodied in full the "forfeited-rights" theory, and revolutionized the constitutional law of the United States. In two statutes of March 2 and March 23, each passed over the unavailing veto of President Johnson, the following program was laid down. After a preamble asserting that no legal governments existed in the "rebel states," nor adequate protection for life and property, the first act divided the states into five military districts, authorized the establishment of military government, and declared that in order to be restored to representation in Congress, each state must frame a constitution by a convention elected by all male citizens twenty-one years old, not disqualified for participation in rebellion; this constitution must be ratified by an election in which a majority of the voters should take part and must further be approved by Congress; the state legislature must ratify the Fourteenth Amendment, and the Amendment must become part of the Constitution. The second act provided the machinery for carrying through the process. The military commanders were directed to enroll a new electorate employing a stringent oath which would exclude practically all Confederates, to hold elections, summon the convention, and conduct the final vote on ratification. The existing "Johnson" state governments were declared provisional only and subject in all re-

spects to the military authority. A third act of July 19, 1867, reinforced this last provision by specifically giving the commanding generals power to remove or suspend officials of the so-called "provisional governments" and to fill vacancies by appointing loyal individuals or by detailing members of the army.

These laws if enacted at the end of the war would have seemed severe, perhaps, but logical and practical. Coming as they did after two years of peace, and imposing despotic military authority upon communities which had had civil government for periods varying from nine months to three years, they seemed excessively harsh. The legal and constitutional inconsistencies involved were almost beyond reconciliation with any coherent principles of constitutional interpretation. The governments of the so-called "rebel states," now declared illegal and provisional, had been competent to ratify the Thirteenth Amendment in 1865 and had been expressly invited to ratify the Fourteenth Amendment in 1866. One of them, that of Tennessee, differing in no respect from the other "ten per cent" states, had actually been admitted to representation in Congress. The war had been recognized by both Congress and the President as having ended in 1866; and nothing in the Constitution could be discovered authorizing the suspension of the writ of habeas corpus except in cases of "rebellion or invasion." The authority by which Congress assumed to create a wholly new electorate and prescribe the contents of the required constitutions could only be derived from the guarantee of a republican form of government (see **REPUBLICAN FORM OF GOVERNMENT**) by violent distortion of language. But it is clear that the anomalies and apparent usurpations of the reconstruction measures would not have appeared had they been put in operation two years earlier. It was the lapse of time and the action of Lincoln and Johnson which led to the logical and constitutional difficulties of the congressional reconstruction acts.

Process of Congressional Reconstruction, 1867-1868.—The actual process of reconstruction was not completed until July, 1870. All of the southern states except Tennessee were accordingly subjected to despotic military government for longer or shorter periods. State and municipal officials were appointed, removed and suspended by the military authorities. State laws were overridden, suspended, modified or actually superseded by military orders. The state judiciary was checked and made subject to military control. Taxes were collected under military authority for the support of "state" officials who received their power from the military commander. To reconcile the conditions of southern government with any constitutional theory under this régime is an almost hopeless task. Practically the government by the federal gen-

erals seems to have been just and efficient; but the fact that it was superimposed on actually existing civil governments made it appear to the South as simple tyranny.

The registration of electors, the vote on the question of calling a convention, and the election of delegates were carried through in 1867 in most of the states; and the constitutional conventions were in session during the winter of 1867-1868. The new electorate contained all adult male negroes and such whites as were not expressly excluded by the reconstruction acts or by the oath required by the registration boards. The "loyal" voters thus established were the most ignorant members of the community, and those least qualified by training for leadership. But, since the congressional scheme demanded that a "loyal" majority be found in every state in order to safeguard the results of the war, it was necessary, if reconstruction was not to be indefinitely prolonged, to use the freedmen to create such a majority. Moreover, there was a general feeling that only through the possession of the ballot could the late slaves protect their rights against their former masters. The unfortunate result was the immediate alignment of society in the South into two parties, divided on race and class lines. Governmental questions became wholly subordinated to political considerations, and the process of reconstruction under the congressional plan was an unrelenting and mercilessly partisan contest from beginning to end. "Loyalty" became identified with adherence to the congressional scheme and to the Republican party which controlled Congress. "Disloyalty" consisted in any opposition to negro suffrage or to the control of the community by the new "loyal" organization.

Restoration of the First States, 1868.—In 1867 and 1868 the new program was carried through with partial success. In spite of every effort on the part of the southern whites, constitutions embodying negro suffrage and disfranchisement of Confederates were drafted, submitted to popular vote and adopted in six states. Congress modified the requirement that a majority of the registered electorate must participate in the vote on ratification, by an act of March 11, 1868, which was not passed, however, until in Alabama the constitution was apparently defeated through the operation of the original proviso, less than half of the registered voters having cast ballots. Apparently out of anxiety to allow these states to participate in the coming presidential election, the majority in Congress now abandoned another requirement laid down in the first Reconstruction Act and, instead of waiting until the Fourteenth Amendment was part of the Federal Constitution, accepted the ratification of the amendment by the state legislatures as sufficient. An act of June 22, 1868, declared Arkansas admitted to repre-

sentation, and another of June 25, admitted not only North and South Carolina, Louisiana, Georgia and Florida to representation, but also Alabama, whose constitution had been voted on by less than the required majority. A so-called "fundamental condition" was imposed upon each of these states, that its constitution should never be amended so as to disfranchise any of its citizens who were then entitled to vote. Georgia was also required to alter certain parts of its constitution.

In the remaining three states the process came to a halt. In Texas the convention adjourned without completing a constitution; in Virginia the draft was completed and the convention adjourned; but there were no funds to defray the expense of the vote on ratification; in Mississippi the opposition or "Conservative" party brought about the outright rejection of the constitution at the polls. The Fourteenth Amendment, however, secured the necessary number of votes and was proclaimed on July 20, 1868. Military government ceased in all but three of the southern states and the new governments were left in full control.

Fifteenth Amendment and the Last States, 1869-1870.—The final stages of reconstruction were affected in two ways by the election of 1868. In the first place General Grant, elected President by the Republican party, was able to exercise an influence over Congress such as had been lacking since the days of Lincoln; moreover, Grant himself was inclined to moderation in the treatment of the South. In the second place the bitter struggle which raged in every southern state between whites and blacks, the operations of the Ku Klux Klan, and the sudden and violent overturning of Republican majorities in Georgia and Louisiana, led the radicals in Congress to devise additional means for protecting the right of the freedmen to vote. In the session of 1869, a new constitutional amendment was passed and submitted to the states to the effect that the right of citizens of the United States to vote should not be denied or abridged on account of race, color or previous condition of servitude. Then the three remaining states were dealt with. First an act of February 18, 1869, purged their provisional governments by causing the exaction of the so-called "iron-clad" oath of July 2, 1862. Then by an act of April 10, 1869, President Grant was authorized to provide for the resubmission of the Mississippi constitution and the submission of the Virginia and Texas constitutions in whole or in part at his discretion. The purpose of this act was to allow the disfranchising clauses of the proposed Virginia and Mississippi constitutions to be voted on separately, a policy strongly advocated by the President. These states were also called upon to ratify the new proposed Fifteenth Amendment (*see*).

The plan worked smoothly; each state accepted its constitution, Virginia and Missis-

issippi rejecting the disfranchising clauses; and Congress, by acts of January 26, February 23, and March 30, 1870, declared Virginia, Mississippi and Texas, respectively, readmitted to representation. Two more "fundamental conditions" were imposed, however, upon these states. The constitutions were never to be altered so as to deprive citizens of the United States of the right to hold office or enjoy school privileges on account of race or color. The Fifteenth Amendment, helped to its ratification by these measures, became part of the Constitution on March 30, and the process of reconstruction seemed to be complete.

The Third Reconstruction of Georgia, 1868-1870.—The last act in the process proved to be nothing less than a third reconstruction of the single state of Georgia, whose "loyalty" appeared dubious. The Georgia legislature, in 1868, after the state had been declared restored, refused to ratify the Fifteenth Amendment and ejected all its negro members on the ground that, while the new constitution gave all men the ballot, it did not guarantee them the right to hold office. In the session of Congress beginning December, 1868, the Georgia Senators were denied admission and the radical members of Congress urged a new interposition. In the next year an act of December 22, 1869, authorized the purging of the Georgia legislature by an oath substantially the same as that of the first Reconstruction Act, or by an oath to the effect that the testator had been relieved of disability by an act of Congress. The exclusion of negroes from office-holding was prohibited and the governor of the state was authorized to call upon the United States military forces for assistance. Georgia was also required to ratify the Fifteenth Amendment.

The result of this act was to impose military control upon the state for the third time. The Governor promptly called for military aid and General Terry assumed charge of the purging of the legislature. The outcome of the process was the unseating of enough "disloyal" conservatives and the seating of enough negro radicals to give the state a "loyal" government, which promptly ratified the Fourteenth and Fifteenth Amendments. An act of July 15, 1870, finally restored Georgia to representation with no further impediments. In this last affair the legal status of Georgia and the constitutional basis for the reversal of its action by Congress are in hopeless self-contradiction. Only by the widest possible extension of the meaning of the "guarantee of republican government" could the third imposition of military government be justified. The action of the Senate in admitting as Senators the persons chosen by the original legislature in 1868 marks the crowning inconsistency. With this final restoration of Georgia the process of reconstruction may be considered as complete.

Supreme Court and Reconstruction, 1866-1872.—The third branch of the Federal Government remains to be considered. The Supreme Court under the headship of Chief Justice Chase (*see*), had the undoubted right to declare the true interpretation of the Constitution, and the course of reconstruction offered numerous opportunities for test cases to be brought before it. But from 1865 to 1869 a consistently cautious policy controlled every decision of the court. The justices had no wish nor intention to become involved in the bitter struggle. Whatever their private views might be, they saw clearly that the crisis was such as to be beyond merely legal adjudication. In 1867 two decisions regarding test oaths, *ex parte Garland* (42 Ala. 559) and *Cummings vs. Missouri* (4 Wall. 277), declared a law of Missouri and part of a law of Congress invalid as *ex post facto*. In another case, *ex parte Milligan*, which involved an appeal from a capital sentence by court martial in the state of Indiana, the court held that the suspension of the writ of habeas corpus and of jury trial was unconstitutional in states where the ordinary civil courts were open. Encouraged by these decisions the governor of Mississippi asked for an injunction to restrain the President from carrying out the reconstruction acts; but the court declined to interfere. A second attempt, made by the governor of Georgia against Stanton, the Secretary of War, was also unsuccessful; for the court would not undertake to enjoin the chief officers of the executive department in political matters.

The next year, however, a test case came squarely before the court. McCordle, a Mississippi editor who came into conflict with the military government in his state, sued for a writ of habeas corpus and was able, under an act of 1867, to bring his case before the Supreme Court. If the court held to the doctrine of the *Milligan* case it could not avoid a decision against the reconstruction acts. Congress now interposed, and by a statute of March 27, 1868, relieved the Supreme Court of jurisdiction in such cases; and the justices made haste to drop the dangerous subject. When the process was substantially completed, the court was ready to act. In the case of *Texas vs. White* the Supreme Court upheld the right of the "Johnson government" of Texas to bring suit. The state of Texas, it said, had not ceased to exist, since the Constitution provided for "an indestructible union of indestructible states" (*see*); the "Johnson government" had been legally established under the military authority of the President and hence was able to bring suit. Three years later in 1872 in *White vs. Hart*, the Court expressly refused to inquire into the validity of the Georgia constitution of 1868 on the ground that this was a matter in which the judiciary was clearly bound to follow the action of the political departments of the government. On each of

these opinions Chase took occasion to expound the doctrine of forfeited rights as the true explanation of the status of the seceded states. With the ratification by the Supreme Court of the action of Congress the final step was taken to complete the process of reconstruction.

See DEMOCRATIC PARTY; JOHNSON, ANDREW; NEGRO SUFFRAGE; REPUBLICAN PARTY.

References: J. F. Rhodes, *Hist. of the U. S.*, V, VI (1904-6); W. A. Dunning, *Reconstruction, Political and Economic* (1907), *Essays on the Civil War and Reconstruction* (1898); J. W. Burgess, *Reconstruction and the Constitution* (1902); J. G. Blaine, *Twenty Years of Congress* (1884-1886); E. McPherson, *Political History of the United States during Reconstruction* (1875); W. L. Fleming, *Documentary History of Reconstruction* (1906-1907), *Civil War and Reconstruction in Alabama* (1905); C. H. McCarthy, *Lincoln's Plan of Reconstruction* (1901); H. G. Flack, "The Adoption of the Fourteenth Amendment" in *Johns Hopkins Univ. Studies* (1908); J. M. Mathews, "Legislative and Judicial History of the Fifteenth Amendment" in *ibid* (1909); H. J. Eckenrode, "Virginia during Reconstruction" in *ibid* (1901); J. W. Garner, *Reconstruction of Mississippi* (1901); J. W. Fertig, *Secession and Reconstruction of Tennessee* (1898); E. C. Woolley, *Reconstruction of Georgia* (1901); J. S. Reynolds, *Reconstruction in South Carolina* (1905); J. G. D. Hamilton, *Reconstruction in North Carolina* (1906).

THEODORE CLARKE SMITH.

RECORDER OF DEEDS. In all of the American states, documents affecting title to real estate must be recorded in a public office to be valid against an innocent third party. In about half of the states these records are in charge of an elective county official, known as the register or recorder of deeds; in other states such documents are recorded by the county clerks or county auditors, except in Connecticut and Rhode Island, where the town clerks act as recorders.

This system of public land records was early established in the New England colonies; and before the Revolution had been extended to all the seaboard colonies. These public records are now the recognized basis for determining titles to land in the United States. The documents recorded include warranty and quit claim deeds of sale, mortgages and satisfaction of mortgages, notices of heirs, easements and other instruments, varying to some extent in different states. Some documents affecting title to land are, however, not filed in the local record office—such as United States patents, tax liens, judgments and legacies.

Several states have now supplemented this system of land records by providing for an official registration of land titles, under what is known as the "Torrens System."

See LAND RECORDS; TORRENS SYSTEM.

References: J. H. Brewster, *Conveyance of Estates* (1904), ch. xxix; B. R. Webb, *Record of Title* (1907), 17-20.
J. A. F.

RED CROSS CONVENTIONS. The first international Red Cross movement, for the amelioration of the condition of sick and wounded in warfare on land, was the Geneva Convention of 1864, the work of an international conference called by the Swiss government. It may be regarded as an international statute giving definite status to officially recognized volunteer aid societies, which supplement medical service of armies in time of war, or render assistance after great disasters in time of peace. Although originally signed and ratified by only ten powers, it has since received the adherence of thirty-four others. The United States, although represented by delegates at Geneva in 1864, did not adhere to the convention until 1882.

Another convention was signed at Geneva in 1868 to revise and extend the original provisions as to maritime warfare, but was never ratified by the United States and is not in force as a treaty. The Senate, in 1882, included its provisions with the convention of 1864 and advised and consented to their ratification as additional articles.

The first Geneva convention was revised and made more effective and elaborate in 1906 by a Geneva conference of representatives of thirty-seven powers, inspired by the first Peace Conference of 1899. This International Red Cross Convention was the basis of the work of the second Peace Conference (1907) in seeking further adaptations to naval warfare. It received the adherence of the United States by advice of the Senate on December 19, 1906, and was ratified by the President on January 2 and proclaimed August 3, 1907.

Once every five years, representatives of the various powers signatory to the Geneva treaty meet in international conference for discussion of policies. Such conferences met at Vienna (1897), St. Petersburg (1902), London (1907), and Washington (1912).

See HAGUE CONFERENCES; NEUTRALITY, PRINCIPLES OF; NON-COMBATANT.

Reference: W. M. Malloy, *Treaties and Conventions* (1910), II, 1903-1924, 2183-2204.

J. M. CALLAHAN.

RED TAPE. A term, of English eighteenth century origin, indicating formality and obstruction common in official circles. Its origin is traced to the use of red tape by officials for tying up documents.
O. C. H.

REDEMPTION OF CURRENCY. Since the redemption of specie payments in 1879, treasury notes are redeemed by the treasury upon presentation. Prior to 1893 the volume of redemptions was not large, not exceeding \$10,000,000, in any one year. In 1893, owing to

lack of confidence in government credit and the need of gold to settle trade balances, the amount ran up to \$102,000,000 and in 1896, to \$159,000,000. With the enactment of the gold standard act in 1900, the redemptions have fallen to lower figures.

The redemption of bank notes is also carried on through the office of the treasurer at Washington. Notes are returned either because they are unfit for circulation, or because of a desire to exchange for money with legal tender quality. On account of this latter consideration, the redemption of bank notes is far more active than that of treasury notes. In 1910 such redemptions amounted to \$503,000,000, or five-seventeenths of the total circulation. See CURRENCY; GOLD RESERVE; TREASURY NOTES. Reference: Secretary of the Treasury, *Annual Reports*, 1910, 157-159.

D. R. D.

REDEMPTIONER. A term applied to persons who made agreements with masters of vessels or the owners to bring them across the ocean and to dispose of their services for a term of years to any one who would recoup the passage money. Both English and colonial laws allowed this form of bondage, and as late as 1800 redemptioners were held on board ship in the harbor of Philadelphia waiting a purchaser. George Washington at one time contemplated importing a ship-load of redemptioners. See INDENTURES AND INDENTED SERVANTS. References: J. C. Ballagh, "White Servitude in Virginia" in *Johns Hopkins University Studies*, XIII, Nos. 6-7 (1895); E. I. McCormac, "White Servitude in Maryland" in *ibid*, XXII, Nos. 3-4 (1904); K. F. Geiser, "Redemptioners in Pennsylvania" in *Yale Review*, Suppl. X, No. 2 (1901); John Harrower, "Diary" in *Am. Hist. Review*, VI (1900), 65-107.

A. B. H.

REED, THOMAS BRACKETT. Thomas B. Reed (1839-1902) was born at Portland, Me. October 18, 1839. In 1864 he was appointed assistant paymaster in the United States Navy. He entered the Maine legislature in 1868, was chosen state senator in 1870, and from 1870 to 1872 was attorney general of the state. From 1874 to 1877 he was city solicitor of Portland. In 1877 he was elected to Congress as a Republican, and served continuously in the House until 1899. In 1889-90, and again from 1895 to 1899, he was Speaker, and from 1891 to 1895 the leader of his party, during those years in a minority, in the House. Himself a master of parliamentary law, his method of "counting a quorum," by including members actually present though not answering to their names, evoked a storm of criticism which brought about the adoption of new rules. His rigid administration of these rules won for him the title of "Czar." In 1896 he was a prominent but unsuccessful candidate for the

Republican nomination for President. In 1899 he retired from politics, and practiced law in New York until his death, at Washington, December 7, 1902. He published *Rules of Parliamentary Procedure* (1898). See CONGRESSIONAL GOVERNMENT; TARIFF POLICY OF THE UNITED STATES. References: M. F. Follett, *Speaker of the House* (1896); *Appleton's Annual Cyclopaedia* (1878-99); D. R. Dewey, *National Problems* (1907); H. B. Fuller, *Speaker of the House* (1909), ch. viii.

W. MacD.

RE-ELECTION. See PRESIDENTIAL ELECTIONS; TERMS OF PUBLIC OFFICERS.

REFEREE BOARD OF CONSULTING SCIENTIFIC EXPERTS. The official name of the commission appointed by President Roosevelt June 30, 1906, to pass upon expert questions arising out of the Pure Food and Drugs Act of June 30, 1906. See REMSEN BOARD.

A. B. H.

REFEREE IN BANKRUPTCY. A title given by the National Bankruptcy Act of the year 1898, to the officer to whom is referred by the district court bankruptcy estates for administration. Under a former act the referee was termed a register in bankruptcy, which name is now obsolete. He is appointed by the district judge for the term of two years. After the reference he has full power to administer the estate. He has no jurisdiction to confirm a composition or grant a discharge to the bankrupt. His duties are mostly judicial but also ministerial, and all his orders are subject to review by the judge on appeal. See BANKRUPTCY.

S. C. E.

REFERENDUM. By the referendum, the legislative acts of a representative assembly are submitted to the people for enactment or rejection by popular vote. In 1780 the new Massachusetts constitution was thus ratified, and since 1825 few state constitutions or amendments thereto have gone into effect without the ratification of the voters. A second type of referendum was introduced in several states by amendments to their constitutions requiring that acts passed by the legislature relating to specific subjects (*e. g.*, the sale of school lands, or the incurring of state debt) must be submitted to popular vote. A later practice whereby, in the absence of such constitutional authorization, legislatures attempted to refer to the people miscellaneous perplexing question, was checked by court decisions denying the power of representative legislatures to delegate law-making power. In 1898, South Dakota (*see*) set the first example of adopting the optional or facultative referendum. In turn, Oregon (*see*) (1902), Nevada (1905), Montana (1906), Oklahoma (1907), Maine (1908), Missouri (1908), Arkansas (1910),

Colorado (1910), Arizona (1911, in the original constitution), California (1911), Idaho (1912), Nebraska (1912), Ohio (1912), Washington (1912), Michigan (1913), and, in a limited form, Massachusetts (1913), provided for the referendum.

Attempts have been made to annul the Oregon amendment, but the courts have ruled that this procedure "does not abolish or destroy the representative form of government, or substitute another in its place. The representative character of the government still remains." In the ten years, 1902 to 1912, Oregon voters passed upon 25 proposed statutes, 16 of these were referred to them by the legislative assembly; of these, 5 were ratified and 11 rejected. Nine were acts which had been passed by the legislative assembly, and were brought before the people by petition; of these 4 were ratified and 5 were rejected. From 1898 to 1912, in all the other states, only 34 statutes, enacted by the legislatures, were brought before the people by referendum petition. Of these, 17 were ratified and 17 were rejected.

See INITIATIVE; LEGISLATION, DIRECT; OREGON; RECALL.

References: "Referendum in Operation" in *Quarterly Review*, CCXIV (1911), 509-538; E. P. Oberholtzer, *Referendum, Initiative and Recall in Am.* (1912); C. A. Beard, *Readings in Am. Gov. and Polit.* (1911), 413-431; C. A. Beard and B. E. Shultz, *Documents on Initiative, Referendum and Recall* (1912); J. Bourne, Jr., *Popular vs. Delegated Gov.* (1910), a speech delivered in U. S. Senate May 5, 1910, *Speech*, Feb. 27, 1911, printed as separate pamphlet (1911); M. A. Schaffner, "The Initiative and Referendum" in Wisconsin Library Commission, *Comparative Legislation Bulletin*, No. 11 (1907); E. E. Slosson, "The Referendum in Action" in *Independent*, XLIX (1910), 734-740; G. H. Haynes, "People's Rule in Oregon" in *Pol. Sci. Quar.*, XXVI (1911), 32-62, "People's Rule on Trial" in *Pol. Sci. Quar.*, XXVIII (1913), 18-33; W. B. Munro, *Initiative, Referendum and Recall* (1912); F. A. Cleveland, *Organized Democracy* (1913), Pt. IV; A. L. Lowell, *Popular Opinion and Popular Government* (1913), with appendix of instances; *Am. Year Book*, 1910, and year by year.

GEORGE H. HAYNES.

REFORM IN GOVERNMENT. See under EXECUTIVE; JUDICIAL; LEGISLATIVE.

REFORM MOVEMENTS, POLITICAL. Machinery of Government.—Movements for reform may be called political for either of two reasons, first, because they propose changes in the Constitution, in legislation or in administration of the government, or, second, because they become issues in the party struggle. A governmental reform may become a partisan

issue and so illustrate both qualities of the typical political movement. The difference between a governmental reform that is effected without becoming a partisan issue and one that is secured through party effort, is shown by the diverse history of the constitutional changes in the election of the President and those affecting the choice of Senators. The original method of electing a President by an electoral college was rendered impracticable through the rise of political parties which gradually appropriated that privilege for the people. This change, though of profound significance, was in no sense a partisan issue or a party measure, but grew inevitably out of the nature of political parties. A hundred years later, the growth of certain partisan abuses led to agitation for a similar transference of the right to elect United States Senators from the state legislature to the people and became a matter of political discussion and party agitation. The direct election of Senators was secured in states where the people's choice, expressed in a primary election, was considered binding by the legislature. In the same line of democratic reform through political agitation are the movements for the referendum (*see*), popular initiative (*see*) and the recall (*see*), all of which tend to secure to the people more effective control of the government. Reform of the civil service (*see*) also, while non-partisan in its methods, strives to lessen party abuses by removing one great source of party power in city, state and nation. These proposed reforms are all directed against evils that have arisen in connection with the present party system, and consequently are all purely political in their nature.

Reforms as Party Issues.—No attempt will here be made to enumerate the many political reforms that now claim public attention. A few only are selected as illustrations of several classes of movements, all having political significance. The question of woman suffrage (*see*) is not a party matter. Its object is a change in the composition of the electorate, but the proposed extension has not yet become a party issue. The struggle against intemperance began as a purely social effort, but it could not be kept out of politics. In no country has an active temperance propaganda been long maintained without recourse to some sort of political action (*see* PROHIBITION PARTY, LIQUOR LEGISLATION). The child-labor (*see*) movement may be described as of an industrial, educational and social nature, since its promoters seek to effect a change in industry, to extend opportunities for education and to save the child to the family and to society. But these objects pursued without any effort to enact and enforce laws would command little attention. The present movement is backed by a non-partisan league, but it seeks to gain party support for its legislation.

The coming of the capitalistic age in industry has given rise to continual conflict between wage-earners and capitalists. The two parties to the controversy have become more and more thoroughly organized and their struggle has large political as well as economic importance, while some of the reform movements generated thereby are social, some industrial and some political. Profit sharing and coöperation are advocated for the relief of industrial conditions; compulsory arbitration (*see*) is urged for political reasons. But the wage-earners represent only one section of the citizenship whose grievances arise from organized capital. The farmers have suffered at the hands of railway monopoly, and as a result arose the Grange (*see*) organization and the Farmers' Alliance (*see*). Granger laws of importance (*see* GRANGER CASES) were enacted in several states, followed by the Interstate Commerce Act (*see* INTERSTATE COMMERCE AND CASES). Thus were political results obtained from an industrial movement. With increasing insistence the evils attacked by the Grangers are becoming the object of political controversy and reform efforts.

That a given reform may be furthered either by nonpartisan or partisan methods is shown in the case of proposed changes in tax legislation. The "single tax on land values" is in England a party measure, while in America it is advanced only by a non-partisan organization (*see* TAX, SINGLE).

Socialism.—One movement remains to be considered because of its significance and its comprehensive character. Socialism (*see*) is the only system that offers a complete substitution for the present industrial, economic and political organization of society. It would break down present distinctions of all kinds and would reorganize society in such a way as to render all other political reforms unnecessary. Socialists are fond of describing their scheme as the democratization of industry, and every political movement toward democracy they claim as their own, teaching meanwhile that all will be futile unless organized society removes from private hands the ownership and control of the instruments of production. So successful has become the socialistic propaganda that it has produced a new classification of reform movements. The public school system is described as socialistic; likewise the postal service, the government telegraph, the government ownership of railways, mines, forests; the city ownership of street car systems, the public water and light supplies; state banking, state insurance and old age pensions, are each and all pronounced socialistic, as is the policy of protection, while free trade is condemned as anti-socialistic. The Henry George (*see* SINGLE TAX) movement is often called socialistic, when in reality it proposes to adopt some only of the specific reforms of socialism for the avowed purpose

of forestalling the setting up of a socialistic state. Many other reformers favor one or another of the socialist's propositions without accepting his underlying theory of government. Throughout the world socialists have adopted the political party as a means of spreading their faith, and they frankly appeal for political support in their effort to supplant the present political régime.

See CORRUPT PRACTICES ACTS; INDEPENDENT MOVEMENTS IN POLITICS; MUNICIPAL VOTERS LEAGUE; NOMINATING SYSTEMS; NON-PARTISAN POLITICAL ORGANIZATIONS; PUBLICITY; THIRD PARTIES.

References: H. George, *Progress and Poverty* (1897); R. T. Ely, *Socialism and Social Reform* (1894), especially Pt. IV; G. Smith, *Questions of the Day* (1893), Essays I and VIII; J. Bryce, "Hindrances to Good Citizenship" in *Yale Lectures*, 1909, 107-123; Jane Addams, *Democracy and Social Ethics* (1902), ch. vii; R. C. Brooks, *Corruption in Am. Politics* (1910), 287-290; T. Roosevelt, "Reform through Social Work" in his *American Ideals* (1897), 343-359. JESSE MACY.

REFORM SCHOOLS. *See* SCHOOLS, INDUSTRIAL.

REFORMATORIES. **Definition.**—In this article, the term "reformatories" will be applied to state reformatory prisons for young men above the age of 16 years. In this class are included such institutions as those at Elmira, New York, Concord, Massachusetts, Rahway, New Jersey, Huntingdon, Pennsylvania, Mansfield, Ohio, and Jefferson City, Indiana.

While the laws governing state reformatories differ in detail in the different states, most of them follow certain general lines. They usually provide for the admission of young men between the ages of 16 and 25 convicted for the first time of a felony. Prisoners are committed on indeterminate or indefinite sentences, usually with a minimum and maximum limit. In a number of states, provision is made for the transfer of incorrigibles from juvenile reformatories to the State reformatory and from the reformatory to the state prison, without a new trial.

Plant.—The architecture of the state reformatory is similar to that of ordinary state prisons, except that the cells are usually larger and better lighted and there is provision for school rooms and lecture rooms, and often for gymnasium and athletic fields.

Grades and Marks.—In most state reformatories, the prisoners are divided into grades indicated by diversified uniforms. Prisoners usually enter the second grade and are promoted or demoted according to their record. Prisoners are placed in the third grade for serious violations of the rules but can usually regain the second grade after a brief period of a clear record.

In most of the reformatories there is an elaborate system of marks. The prisoner is marked upon his conduct, his school work, and his industrial work. He is liable to lose marks for lack of neatness in his clothing, cell or school books, for talking, being out of line, interfering with other inmates, waste of food or material, injury to property, etc., etc. In some reformatories as high as fifty different items may be noted, any one of which may affect the question of the length of time before which the prisoner may regain his liberty.

Time of Parole.—In most state reformatories, the time of parole is determined by the governing board of the prison and in every rightly organized reformatory the effort is to produce such a character as will lead the authorities to believe that the prisoner, if released, will lead an upright and orderly life. It is the duty of the governing board with the assistance of the superintendent and other officers of the reformatory to discover when the prisoner has attained this character. This question is determined not simply by the written record, showing the marks gained by the prisoner but also by the judgment of the officers as to the genuineness and fixity of the right purpose of the prisoner. A bad man, unchanged in his character, may make a perfectly clean record while in prison. An experienced and fair-minded officer who is in daily contact with the prisoners can usually, in the course of months, form a just opinion as to the actual disposition and purposes of the prisoner.

Essentials of Reformation: Diagnosis.—The essentials for the reformation of first offenders may be outlined as follows: (1) There must be a thorough diagnosis involving the study of the entire man. It will include a thorough physical and medical examination by a competent physician, a psychological examination by a qualified psychiatrist, who may be the same physician, a study and full record of the history of the prisoner, including his heredity, his home conditions, his education, his previous associations, his religious affiliations and training, his industrial training and experience, his moral preceptions, disposition and real character, his court record, institutional record, and his criminal experience.

Officials.—(2) In order that the personal influence and judgment of the officers may be brought to bear individually upon every prisoner, many believe that each reformatory ought to be limited to 500 or 600 inmates. The assistant superintendent who is the disciplinary officer must be able to secure not only obedience but the respect and confidence of the inmates both by the fairness of his decisions and the spirit in which he administers discipline. The superintendent of schools must be able to discover the intellectual capabilities and possibilities of his pupils, to awaken their ambition. He must be able to awaken a new

realization of the value of knowledge and to inspire a genuine desire for learning. The curriculum must be adapted to the actual needs of the pupils with a view to their efficiency and success in the outside world. The chaplains or moral instructors must be not only men of genuine religious spirit but men who can present the truth in living form, can awaken spirituality in sluggish souls, and can recognize in unexpected places aspiration and craving for better things. The power of religion as a reformatory agency can not be ignored by anyone who hopes to accomplish this difficult task. The religious work of the reformatories should be done by chosen men for that purpose. Great good may be accomplished by occasional visits, but the every day work must be done by those who are directly responsible for it. The physical director must study and know the physical needs of the men. He must not only know the science of physical development but he must know how to develop character through training, team work, fair umpiring and sportsmanship on the athletic field. Military drill may play an efficient part in the physical and moral training of students, but it is now generally agreed that it should hold a secondary place and should not be the controlling impulse of the reformatory.

Every officer in the prison should be selected with special reference to his ability to contribute to the work of establishing right character. They should be clean, intelligent, wholesome men, inspired with an earnest purpose to follow the lead of the superintendent in his endeavors.

Industrial Training.—(3) Industrial occupation and training are recognized as an essential part of reformatory discipline. It is generally agreed that it is proper for prisoners to earn their own support as far as practicable, but that the securing of a revenue from the labor of the prisoners should be secondary to the general purpose of reformation and should not be allowed to interfere with the necessary work of the school of letters or vocational training. As a rule it is found that vocational training can not be adequately secured in connection with the ordinary domestic work, farming and industrial work of the institution but that it is necessary in each of these departments to introduce specific manual and vocational training. A few boys may learn to be bakers, tailors, stationary engineers or horticulturists in the work of the institutions, but the rank and file must learn by special training or not at all. This is especially true because, through the opposition of labor organization, the field of prison industries is greatly restricted.

Supervision under Parole.—The most critical part of the work of the reformatories is the treatment of the inmate during the parole period after his release from the prison. The reformatories employ one or more parole agents

whose duties are to study the qualifications and bent of the prisoner before his release, to assist him if necessary in obtaining employment, which must invariably be secured in advance; to get into touch with the employer and enlist his coöperation in helping the young man to maintain his purpose of right living; to visit and correspond, encourage, stimulate and to return him to the institution, if necessary and to help him to get a fresh start. The parole agent is to be wise and sympathetic but is to keep in the mind of the prisoner the fact that if he cannot control himself, he will have to be restrained.

Defective Delinquency.—The work of the state reformatory has been greatly hindered by the presence in them of a considerable number of subnormal men. Recent study of inmates of the reformatory at Elmira, New York and Rahway, New Jersey, indicate that from twenty per cent to thirty-three per cent of the prisoners in state reformatories really belong to the feeble-minded class, and are not amenable to reformatory treatment. These young men are usually classed as "defective delinquents" and it is coming to be generally agreed that it is a waste of effort to apply to them the discipline and training of a reformatory; but that they should be transferred to an institution for the feeble-minded and should be segregated in order to prevent the exercising of their criminal impulses.

A bill was introduced in the legislature of the state of New York in the year 1912 for the establishment of an institution for "defective delinquents" and it is probable that such an institution will be established in the near future. The state has already in custody in its state reformatory and its institution for juvenile delinquents a sufficient number of boys and young men of this class to fill a good sized institution.

See **CRIMINAL, REFORMATION OF; CRIME, STATISTICS OF; PENITENTIARIES.**

References: *American Year Book*, 1910, and year by year; C. R. Henderson, *Penal and Reformatory Institutions* (1910); *Preventive Agencies and Methods* (1910); H. M. Boies, *Science of Penology* (1901); S. J. Barrows, *Reformatory System in the United States* (1900); Ohio State Reformatory, Mansfield, *Annual Reports* (1905 to date); Z. R. Brockway, *Fifty Years of Prison Service* (1912); F. H. Wines, *Punishment and Reformation* (1910); United States Bureau of the Census, *Prisoners and Juvenile Delinquents in Institutions* (1904); Arthur Train, *Prisoner at the Bar* (1906); American Prison Association (formerly National Prison Association), *Reports* (1870 to date).

HASTINGS H. HART.

REFORMATORIES, JUVENILE. Juvenile reformatories have been established in all of the states of the Union except Arkansas, Idaho, Mississippi, Nevada, New Mexico, North Caro-

lina, South Carolina and Wyoming. There are separate schools for delinquent girls in twenty-two states. There are separate schools for delinquent colored boys in Virginia and Alabama. In nearly all industrial schools for boys the trustees hold guardianship with the right to release boys on parole. See **CHILDREN, DEPENDENT, PUBLIC CARE OF; COURT, JUVENILE; REFORMATORIES; SCHOOLS, INDUSTRIAL.**

H. H. H.

REFUGEES. See **ALIEN; ASYLUM, INTERNATIONAL; EXPULSION.**

REGENTS' EXAMINATIONS. State-wide examinations are each year held under the direction of the Regents of the University of the State of New York for testing various kinds and grades of individual and professional proficiency. Beginning in 1865, their scope has greatly widened; and in 1910 included: preliminary or elementary examinations (254,332 papers reported), academic or high school examinations in January and June (330,910 papers), professional (medical, dental, nurse, etc.), training class, training school, state certificate, Cornell scholarship, etc. A total of 681,216 different papers was reported in 1910, and 46,216 credentials issued. Academic credentials are accepted for admission by a large number of colleges. See **EDUCATION, RECENT TENDENCIES IN; EDUCATION, STATE SUPERINTENDENTS OF; SCHOOLS, PUBLIC, SYSTEM AND PROBLEMS; STATE EXAMINERS.** **References:** N. Y. State Edu. Dept., *Seventh Annual Report*, 1911.

K. C. B.

REGISTER OF DEEDS. See **RECORDER OF DEEDS.**

REGISTER OF THE TREASURY. Under the organic law of 1789, creating the Treasury Department, provision was made for the appointment of a register whose duties were to keep an account of all receipts and expenditures of public moneys and of all debts due to and from the government. To this officer was entrusted the preservation of all vouchers. Since 1894 his duties are more specifically concerned with the interest-bearing debt and certain duties incident to the redemption of United States currency prior to its final destruction. He signs and registers all United States bonds. In his reports, published in the annual *Finance Reports* of the Treasury Department, may be found much valuable historical material relating to the government loans. Of special note is that made of 1896. See **DEBT, PUBLIC, ADMINISTRATION OF.** **Reference:** U. S. Treasury Dept., *Finance Reports*, 1896, 584-672.

D. R. D.

REGISTER OF WILLS. The register of wills is usually the probate judge. Each county has some officer, sometimes called the reg-

ister of wills, whose duties are to probate wills, grant letters testamentary, letters of administration and guardianships, settlement of estates of decedents and minors. Their actions, however, are usually reviewable in the circuit courts. In some states, the probate judge and the county recorder each keep records of wills. See COURT OF PROBATE. Reference: Constitutions of the states.

T. N. H.

REGISTRATION OF MAIL. The registration of mail with a view to insuring greater certainty in respect to its delivery and the insurance against loss in case of its non-delivery up to \$25.00 was first authorized by Congress in 1855. The benefits of this service are obtained by paying a fee of ten cents in addition to regular postage which is paid by affixing ordinary stamps to that amount. The system consists in giving to the sender a receipt for the letter or package mailed, in registering the latter at each point of its journey, and in obtaining and forwarding to the sender a receipt from the addressee acknowledging its receipt if so requested. This latter feature is of great importance since, apart from the increased security obtained, the sender is furnished with proof that the communication has been received, and the date of the receipt, that is often of value to him in legal proceedings and business negotiations generally. That this service is found to be desirable is shown by the fact that in the year ending June 30, 1910, 42,053,574 letters and other packages were registered as against but 18,422,649 registered in 1900. See POSTAL SYSTEM OF THE UNITED STATES. References: U. S. Postmaster General, *Annual Reports*; *Official Postal Guide* (annual). W. F. W.

REGISTRATION OF VOTERS. See VOTERS, REGISTRATION OF.

REGISTRY OF SHIPPING. Congress, September 1, 1789, provided rules for registering for the foreign trade vessels built in the United States, and also foreign-built ships that were owned by American citizens on May 1, 1789; for enrolling for the coasting trade both of these classes of vessels of 20 or more tons register; and for licensing vessels from 5 to 20 tons register. An act of Congress, passed in 1817, excluded foreign vessels from the coasting trade. The law of 1817 is still in force, and applies also to the trade between the United States and Alaska, Hawaii and Porto Rico; but not to our trade with the Philippines (*see* COASTING TRADE).

The measurement of vessels and their registry or enrollment is the work of the Surveyors of the Ports and of the Bureau of Navigation of the Department of Commerce and Labor (*see* NAVIGATION). The gross register tonnage of a vessel is the number of cubic feet of the

ship's closed-in capacity divided by 100. The net register tonnage is the number of cubic feet of the vessel's cargo and passenger capacity divided by 100. In addition vessels may be unofficially classed by displacement—that is, by the number of tons of water displaced by the hull when loaded. See COASTING TRADE; NAVIGATION, REGULATION OF; QUARANTINE; SHIPPING, REGULATION OF. References: U. S. Commissioner of Corporations, *Report on Transportation by Water in the United States* (1909), 117–119; E. R. Johnson, *Ocean and Inland Water Transportation* (1906), chs. i, xv; W. F. Johnson, *Century of Expansion* (1903), ch. iii; bibliography in A. B. Hart, *Manual* (1908), § 181. E. R. J.

REGULARITY IN POLITICS. Two sets of delegates from a county or district sometimes appear in a state convention, representing separate factions of the party. The committee on credentials supported by the convention determines which faction shall be recognized as “regular” and its delegates seated. In like manner, when party divisions send more than one set of delegates to a national convention, the question of “regularity” is settled by the convention as the court of final appeal and one faction becomes the recipient of all party favors to the exclusion of the others. Regularity in individual political action is urged upon all their members by party managers in the interest of party uniformity and power. The very use of the word indicates significantly the position occupied by the organized party and its leaders in a popular state, and suggests the subordination of the individual to the organization—one of the most significant facts in American political history. See INDEPENDENT MOVEMENTS IN POLITICS; LOYALTY TO PARTY; VOTING, INDEPENDENT. References: R. H. Fuller, *Government by the People* (1908), 67, 68, 190; M. Ostrogorski, *Democracy and the Party System* (1910), index title “Regularity.” J. M.

REGULATORS. Term applied to the North Carolina insurgents, back country people, about 1768–1771, who revolted against the rule of Governor Tryon because of “excessive taxes, dishonest sheriffs, and extortionate fees.” The term was also applied in South Carolina as early as 1766 to the members of an association called the “Regulation,” the purpose of which was to administer justice in the absence of courts. See INSURRECTIONS, HISTORY OF.

O. C. H.

REICHSTAG. See GERMANY, FEDERAL DIET OF.

RELIGIOUS LIBERTY. Freedom and Equality.—The right to worship according to the dictates of conscience was one of the rights asserted in some of the earliest state constitu-

tions and in some form recognized in all of them as it is also recognized in the First Amendment to the Federal Constitution. But the principle of religious liberty is broader than that of mere religious tolerance. In the first place government within its proper scope is concerned only with the actions and intentions of its members and not with their motives or beliefs, and religious freedom is only a portion of that freedom of thinking and speaking which each person is entitled to enjoy without interference so long as the course of civil conduct prescribed by law is observed (*see* FREEDOM OF SPEECH AND OF THE PRESS). In the second place, the general principle of equality of all persons before the law excludes discriminations on account of religious belief, with the result that religious tests should not be made the basis of political rights or for determining qualifications for office or in general for the possession, exercise, or protection of civil rights.

Recognition of the Existence of Religious Beliefs.—Government may, however, with propriety take cognizance of the fact that a great majority of the people subject to its laws have some form of religious belief, and that the Christian religion in its various phases is the prevalent religious system of the people of this country. Therefore, it has been considered not improper to open legislative sessions and the sessions of constitutional conventions with prayer in accordance with the Christian belief, without regard to any recognized distinction as to sect, and to issue executive proclamations for thanksgiving to the Deity and for supplication for divine interference in cases of impending calamity. Since there is no method by which the constitutionality or validity of such proceedings can be tested, these matters must be determined by usage in the exercise of a sound discretion. In taking cognizance of the general existence of religious beliefs it is proper to require of witnesses that they take a solemn oath in a form likely to be most effectual for those entertaining the Christian belief as to moral duty and future punishment, but as the object of the oath is to secure the speaking of the truth any form may be adopted which is most likely to be effectual in the particular case and the testimony of a witness is not to be excluded because of his conscientious objection to any particular form of oath nor on account of his peculiar religious belief or his want of belief as to future spiritual punishment. Enforced observance of the Christian Sabbath may be required to such extent as to prevent a course of conduct generally shocking to the sentiments of the people, and in order that the peace of the community and the reasonable enjoyment of the privileges of religious worship may be secured. Blasphemy against the Christian religion may for like reasons be made punishable. On the other hand, the religious liberty of the individual

is not interfered with by requiring that he comply with the rules of civil conduct prescribed by law although they may be contrary to his peculiar religious beliefs, for there is no exemption from the obligations of law on account of a belief, however conscientious, that such obligations are unjustifiable or unwarranted.

Taxation.—It would clearly be an interference with religious freedom to impose pecuniary burdens on account of any particular belief or want of belief, or exact any contributions for the support of any form of religious service. Therefore public money can not properly be devoted to the support of churches or of schools founded or designed for the purpose of giving religious instruction in accordance with the beliefs of any particular sect. But exemption of property from taxation on the ground that it is devoted to religious purposes has not been found objectionable, the theory generally adopted being that some discretion may be exercised as to the subjects of taxation and if there is no unreasonable classification or discrimination no constitutional right is violated.

Bible in the Schools.—The support of education being considered a matter with which government may concern itself and for which public money may be appropriated it is generally held that in making provision for public education the prevailing belief of the people in the Christian religion without recognition of any particular sect may be taken into account, and that the reading of the Bible in the public schools, even though in the form of a religious observance, participation in such exercises by the pupils not being required, is not unlawful. If the right to enjoy school privileges is not denied on account of religious belief and no observance of forms is insisted upon which in any way interferes with freedom of conscience, no question can arise which calls for the interposition of the courts.

See FREEDOM OF SPEECH AND OF THE PRESS; QUALIFICATIONS FOR OFFICE.

References: T. M. Cooley, *Constitutional Limitations* (7th ed., 1903), 659-677; H. C. Black, *American Constitutional Law* (3d ed., 1910), 527-535; as to religious toleration in the colonies, *see* J. Story, *Commentaries on the Constitution* (4th ed., 1891), §§ 50-143; and as to religious tests for office, *ibid.*, §§ 1843-1849.

EMLIN MCCLAIN.

REMOVAL OF CAUSES. The original jurisdiction of the federal courts authorized by the Constitution (Art. III, Sec. ii) and provided for by law may be exercised either by the trial of cases originally instituted in such courts or removed to such courts from the state courts in which they are originally instituted, the grounds of removal being such as would have warranted the exercise of jurisdiction by the federal court had the case been originally

brought in such court or authorized by law to be there brought. The application for removal is made to the state court in which the suit is pending with a statement of the grounds therefor. After the application is made in due form and at the proper time, the federal court to which removal is sought may entertain original jurisdiction of the case and proceed as though it had been originally instituted in such court; but if the method or grounds for removal are not sufficient, the federal court may remand the case to the state court for further proceedings. An appeal from a state court of last resort to the Supreme Court of the United States for the determination of some question arising under the Constitution, laws or treaties of the United States is not a removal of the cause to the federal court but an application to the Supreme Court calling for the exercise of its appellate jurisdiction. See COURT, APPELLATE; COURTS, FEDERAL. References: W. W. Willoughby, *Constitutional Law* (1910), I, 124, II, 994; T. M. Cooley, *Principles of Constitutional Law* (3d ed., 1898), 139-145; *Kentucky vs. Powers*, 201 U. S. 1. E. MCC.

REMOVAL OF DEPOSITS. According to the charter of the Second United States Bank (see BANK OF THE UNITED STATES, SECOND), in 1816, government funds were to be deposited with the bank unless the Secretary of the Treasury should otherwise direct, in which case that official should lay before Congress the reasons for such action. No question as to the advantage of making deposits with the bank arose until 1832, when President Jackson was making his attack upon that institution. He then raised a doubt as to the safety of the funds of the government. Investigation made by a congressional committee and by a treasury official gave no support to this suspicion, but Jackson was not reassured.

A delay in the settlement of a payment due from France to the United States through the agency of the bank, and the bank's effort to postpone the immediate payment of a government debt, to be made from government funds held on deposit, convinced the President that the bank had misappropriated government money. He therefore determined to remove the deposits

into the custody of other institutions. Technically this could be ordered only by the Secretary of the Treasury. Two secretaries in succession, McLane and Duane, objected to this procedure, and the latter even refused to resign in order to give way to an official who would fulfill Jackson's wish. Duane was removed and Taney appointed. Before this was accomplished, Jackson, by executive order, had named the date for the removal of the deposits; and in an elaborate *Paper Read to the Cabinet*, accepted full responsibility for the act, on the ground that under the Constitution he was accountable for the performance of duty by the heads of departments. In opposition to this view was the vigorous contention that the Treasury Department was an executive department, with distinct duties of its own fixed by statute; and that Congress had designedly given it independent powers in order to keep asunder the purse and the sword. It was also argued that no money could be withdrawn from the Treasury except under authority of appropriations made by law, and that the removal of deposits without congressional authority contravened that law.

As a matter of fact, Taney did not transfer to the state banks the balance already with the United States Bank. Such balance was used in meeting current expenditures, and new deposits were made with the new depositories. Moreover, it could be shown that the secretaries had always possessed the power of transferring public funds by drafts, and that a transfer was not a warrant, the payment of which was obviously controlled under the appropriation clause of the Constitution.

In accordance with law, Taney presented to Congress (December 3, 1833) the reason for the removal of the deposits. It was based chiefly on the ground of expediency: the bank's charter expired in 1836, and he held it wise to anticipate the closing days of the bank's operations in making proper arrangements for the care of public funds.

See BANK OF UNITED STATES, FIRST; DEPOSIT OF PUBLIC FUNDS; JACKSON, ANDREW.

References: W. G. Sumner, *Jackson* (1895), 296-321; D. R. Dewey, *Financial Hist. of the United States* (1903), 197, bibliography.

DAVIS R. DEWEY.

REMOVAL OF PUBLIC OFFICIALS

General.—The removal of public officials is the term used to designate the act of depriving any person of a government position which is of sufficient importance to be considered an office. If the term of office is indefinite, removal may occur at any time; if the term is definite, it must take place before the expiration of the term to constitute removal;

and it may arise from the abolition of the office. According to law, no incumbent has an absolute right to an office; he has only the right to see that his removal is legal. The national government has decided that the right to remove an official is an executive power that is not an incident of the appointive power and has decided that removals may be made with-

out express provision of law. The opposite is the case in most of the states, for the state and local executives do not possess any power of removal unless the law expressly confers that power, or unless the power of removal is definitely recognized by the courts of that state as an incident of the power of appointment. Where offices have been created by the state constitution, it is held that the incumbent can be removed only by impeachment or address to the legislature, if one of those means of removal is provided. If the position is created by statute, the power to remove must be granted expressly, if the term of the incumbent is prescribed. When the term is for good behavior, removal is necessarily only for cause, but if the term is otherwise of indefinite extent, the incumbent may be removed by the selection of his successor. That arbitrary removals have been one of the most important causes of misgovernment is amply proved by the spoils system (*see*). On the other hand, inability to remove officials who are either incompetent or out of harmony with the administration of which they are a part has been almost as serious a defect in the governments of our states and many of our cities, in which the decentralized administrative organization has tended to produce inefficiency. In contrast with this administrative inefficiency in the states, is the power possessed by the President of the United States (Art. II, Sec. ii) not only to appoint, with the consent of the Senate, all of his subordinates, and through them of lesser officials, but to remove any official under his supervision. This power has developed a national administrative organization that responds promptly and perfectly to the will of the President (*see*).

Removal of Elected Officials.—As the people are able, presumably, to protect their interests and enforce their wishes, in the case of elected officials, by frequent elections, they have relied almost solely on impeachment (*see*) to secure the removal of an elected official whose actions are objectionable. Any official may be removed also for a crime punishable through the courts by imprisonment. A more recent method that may be applied to elected officials is the recall (*see*). Elected officials may be removed in exceptional cases by other officials or by some governmental body. Judges are removable in nearly one-half of the states without resort to impeachment. They may be removed by the governor and legislature or by the legislature alone, the cause always being given. In Michigan the governor may remove his colleagues for misconduct or neglect of duty; while the legislature of some other states has power of removing elected state administrative officials for cause, by joint resolution. In times past, elected city officials have been removable by the state governors or legislatures. Some states permit state interference at present. The governor of New York may remove

the presidents of the boroughs of greater New York. The mayor of an Ohio city was removed (1910) by the governor of that state for failure to preserve order. Sheriffs are more frequently subject to this supervision, being more directly the subordinates of the governor. In six states other county officers may be removed by the governor for cause. In two states the county board may remove elected officials for cause. However, in spite of the dependence of the state upon local officials for the enforcement of state laws and the administration of state as well as local business, New York and Michigan are the only states where most local elected officers, as well as all "state officers" may be removed by the governor, although the centralization of administration in the most progressive states is increasing the power of supervision, including removal, which the governor has over local officials.

Removal of Appointive Officers.—The power of removing appointive state and rural local officials has been very limited. In only five states has the governor absolute power to remove his appointees, although he may remove them in twenty-two others for cause. In cities there has been a much more marked movement to grant mayors full and exclusive power to remove appointed officers, usually for cause; but in the larger cities of New York state and a very few other states, this power is absolute. The President, Vice-President, national judges and other national civil officers are removable by impeachment (*see*) by the House of Representatives and conviction (two-thirds vote) in the Senate (Art. I, Sec. ii, ¶ 5, Sec. iii, ¶ 6; Art. II, Sec. iv). All civil officers appointed by the President and Senate are removable by the President alone. All officers appointed by the President's subordinates are removable at will by the President or by his subordinates who may have appointed them, and even officials in the classified service are removable by the President or his secretaries, for cause, other than political or religious, and after a hearing. The system, as already noted, leaves the President effective control over all national administrative officers, thus enabling him to carry into effect a definite consecutive policy.

History of Removals (National).—When the subject of appointments was taken up in the Constitutional Convention of 1787 nothing was said about the removal of administrative officers, and the proposal to permit the President to remove national judges, on application from the Senate and House of Representatives, received the vote of only one state. In organizing the executive departments in Congress (1789) the question of removal of administrative officials was considered. Although the Constitution does not mention the subject of removal except by impeachment, the House decided promptly that impeachment was intended only as a supplementary method of removal. It was further, and by a substantial majority,

agreed that the power of removal, being a distinctly executive power and not simply an incident of appointment, was vested in the President alone. The Senate concurred in this resolution that the Senate need not be consulted in removals, but the vote of Vice-President Adams was necessary to break the tie. Three quarters of a century later, in its attempt to carry through its reconstruction policy which President Johnson opposed, Congress passed (1867) a tenure-of-office act requiring the approval of the Senate before removals could be made. This law, modified in 1869, when General Grant became President, was repealed in 1886 after a prolonged controversy between President Cleveland and the Senate.

The Process.—Commissions of American officials are usually made only for a definite term, but the term may be indefinite in that the incumbent holds his position during good behavior or during the pleasure of the appointing power. Removals from office may be treated as summary or for cause. (1) Summary removal may be used when the term is at the pleasure of the appointive power and the chief executive. Summary removal may be made also simply by the appointment of a successor, even if the incumbent holds office for a definite term, if the removal power is plenary and no statement of causes is required. Practically the whole power of removal of the President, except for officials in the classified service, is summary. (2) Removals for cause involve probably a smaller number of offices than those that are subject to summary removal, but there is considerable difference in the causes and the processes. In general, there is no power of suspension, if cause is required for removal, unless that is granted expressly by law. Removal for cause is treated as a judicial process and is supposed in all cases to be held according to the forms of law. Cases of removal are rarely tried before a court of law and the removed official may not appeal to the courts for redress except in a few states. In a few cases officials may be removed, as in Boston and Philadelphia, without a hearing, a statement of causes being presented to the council. Regularly, however, the statement of causes must be filed, a copy being sent to the official. After a number of days specified by law, the official has opportunity to present reasons for his retention, usually before the confirming body, which hears the charges of the executive and the reply of the official. The decision is not necessarily proof that the charges are true or that they warrant removal. The causes which are most commonly given as sufficient ground for removal are incompetence, physical or mental disability, official or personal misconduct, corruption and neglect of duty. In the case of offices like those under the national Civil Service Commission (*see*), the filing of charges that cannot be substantiated proves to be a serious offence, for the

cause must be genuine to secure removal. In many more instances, the survival of the spirit which created and perpetuated the spoils system frequently makes the proffered charge a mere excuse for some partisan change. When the law demands a reasonable charge and a fair trial, removal on other charges and without a proper hearing shows a lack of public interest and desire for good government. Fortunately such removals are becoming less frequent.

The Future.—There are two recent movements which affect vitally the power of removal. One is the demand that chief executives shall be made responsible for their subordinates and able to control them; the second, that removals for purely partisan reasons shall not destroy the efficiency of the civil service. These are a recognition of the fact that governmental efficiency requires concentration of administrative power and responsibility. (1) Public sentiment has gradually been securing the enactment into law of this demand for greater administrative centralization in our states and cities. A generation ago, the attempt was made, by restricting the power of removal, to prevent the continued demoralization of the civil service through arbitrary, partisan removals: today, the desire is to separate political positions from those of a clerical (*i. e.*, purely administrative) character, giving the governor and mayor fuller control over their political subordinates, in removals as well as appointment, and relieving the clerical force from the danger of arbitrary, partisan changes with each change of chief executive. As yet, the discrimination between political and clerical positions is by no means complete or perfect, even in the national civil service, but the great changes of the last generation promise even greater discrimination and more perfect administrative organization in the future. (2) Even slower has been the change toward giving governors and mayors responsible control of their political subordinates, through the right of removal. The reason for this is the public fear that the power of removal will be abused, because the right of removal may be an excuse for the distribution of spoils. Public spirited and far sighted Presidents, governors and mayors, anxious to make their work effective, have been wielding the power of removal, so far as it has been entrusted to them, for the mutual benefit of their administrations and the public. Gradually public sentiment is demanding that other executives shall use the power of removal in the same way. In time the public sentiment of the voters and the public spirit of the executives will correct and remove most abuses that have accompanied the power of removal. When that time comes, the last objection having been taken away, arbitrary restrictions over the chief executive's full power to remove his political subordinates will disappear.

See CIVIL SERVICE COMMISSION; CIVIL SERVICE, FEDERAL; CIVIL SERVICE, STATE; MERIT SYSTEM; RECALL; TENURE OF OFFICE; TERMS OF PUBLIC OFFICERS.

References: D. B. Eaton, "Removals from Office" in *Cyclop. of Pol. Sci.* (J. J. Laylor, Ed., 1890), III, 565-569; J. H. Finley and J. F. Sanderson, Eds., *Am. Executive* (1908), 29-43, 93-104; A. B. Hart, *Actual Government as Applied under Am. Conditions* (1903), §§ 71, 94, 125, 131-133; C. R. Fish, "Removals of Officials by Presidents of the U. S." in *Am. Hist. Assoc. Report*, 1899, I, 67-86, *Civil Service and the Patronage* (1905); J. P. Cutton, "Restrictions on Power of Removal" in *Nat. Civil Service Reform League, Proceedings*, 1904, 132-140; D. K. Watson, *Constitution of U. S.* (1910), II, 973-987; F. J. Goodnow, *Comparative Administrative Law* (1893), I, 62-70; T. H. Benton, *Abridgments of the Debates of Congress* (1856), I, 85-90; G. Cleveland, *Presidential Problems* (1904), 1-76; U. S. Civil Service Commission, *Annual Reports* (1882 to date); Laylor, Ed., *Cyclopedia of Polit. Sci.* (1890).

R. L. ASHLEY.

REMSSEN BOARD. Under the Pure Food and Drugs Act of June 30, 1906, the Bureau of Chemistry was to make examination of all suspected articles to see whether they were adulterated or misbranded. That board held that benzoate of soda was injurious to the human body, and therefore that any article of food which contained this preservative could not be sold. As there was a difference of opinion among scientific men upon this question, President Roosevelt designated an informal board under the chairmanship of President Remsen of Johns Hopkins University, and that board reported (1910) that benzoate of soda in moderate quantities was harmless; and the Secretaries of Agriculture, the Treasury, and Commerce and Labor were charged in making rules for the enforcement of that act, not to require the exclusion of such products. See HEALTH, PUBLIC, REGULATION OF; PURE FOOD. Reference: *Am. Year Book*, 1910, 401-406; 1911, 616-619.

A. B. H.

RENT. Theory of.—In classical economics rent is defined as that part of the product of the soil which the landowner can claim as payment for the use of its original and indestructible properties. By this definition are excluded from rent payments for the use of improvements fixed in the soil, even though permanent, and payments for natural elements of fertility destroyed through cropping. The former are treated as interest on capital; the latter are sometimes classified with the royalties from mines, although usually ignored.

In classical theory rent, thus defined, presents a number of peculiar characteristics, of which the most important are that it corre-

sponds to no sacrifice on the part of its owner, and that it does not "enter into price" *i. e.*, serve as a price-making element in the business calculations controlling production, and hence prices. To illustrate these characteristics, the classical economists had recourse to a pseudo-historical discussion of the origin and progress of rent in a new country. Assuming free competition, the products of agriculture will sell at prices covering wages and interest alone, so long as the demand for such products can be met by a superficial tillage of the best land. With increase in the demand for agricultural products, recourse must be had to lands less fertile or less favorably situated, or to a more intensive tillage of lands already under cultivation. In either case an increase in cost is involved. The price of agricultural products must now be sufficient to cover wages and interest outlays connected with that part of the supply produced under the most unfavorable conditions; hence it will be more than sufficient to cover such outlays connected with the other parts of the supply. A surplus thus emerges, which becomes the rent of the land. With every increase in population, lands not hitherto cultivated are put under cultivation, and powers in the better lands not hitherto utilized are drawn upon through more intensive cultivation, with attendant rise in prices and increase in rent.

It is the cost of production on the most inferior lands used ("marginal lands") or in connection with the most inferior powers of the better lands utilized ("marginal powers") that determines the price of agricultural products. These lands and powers yield no rent, hence rent plays no part in fixing price. A corollary of the doctrine is that taxes levied upon rent can not be shifted to the consumer of agricultural products through a rise of prices, since these are fixed on the marginal or no-rent lands, which can not be affected by the tax.

In the later development of economic theory (*see*), the principles governing rent have been applied to other forms of income. On the assumption that the essential characteristic of rent is the fact that it is an income with no corresponding sacrifice, Senior assimilated to it monopoly gains of all kinds, as well as many forms of income commonly treated as competitive wages and profits. Assuming that the essential characteristic of rent is that it is price determined, not price determining, Francis Walker assimilated entrepreneur's profits to rents. Alfred Marshall assimilates to rent incomes from capital in relatively imperishable forms. For short periods, the rent (or quasi-rent) of a building rises or falls with the demand for the use of the building, and so is price-determined, although, in the long run, buildings must earn normal returns on their cost, and hence these returns have a price determining quality.

A far more radical departure from the classical doctrine appears in the theory of distribution of the Austrian and American marginal utility school. Among economists of this school the rent formula is given a general application, with the result that the distinction between income from land and income from other sources disappears. Employing the method of reasoning devised by the classical rent theorists, Clark shows that there is a part of the supply of commodities which pays no wages, and another part which pays no interest, accordingly it would be as reasonable to hold that neither wages nor interest determine price as that land rent does not. Wieser and Fetter, approaching the problem from a slightly different angle, point out that value flows from the finished product to the means of production; hence not only is rent price determined, but wages and interest are price determined in the same sense.

Nor does the marginal utility school accept the view that rent can be differentiated from other incomes on the ground that it corresponds with no personal sacrifice on the part of its recipient, while other incomes do. It is pointed out that only a part of wages and interest can be definitely connected with personal sacrifice; hence these incomes can not in their entirety be differentiated from rent.

Instead of discarding the term rent, adherents of the marginal utility school attempt to redefine it. Clark employs it to designate a fund of income remaining as a residuum after other shares in distribution have been subtracted; thus either wages or interest may be treated as a "rent," according to the point of view. Fetter employs the term to designate the share in the value product assignable to a concrete productive agent; the same share, when reduced to a percentage of the value of the productive agent, becomes interest. Rent and interest, therefore, are the same income, expressed in different terms. This usage corresponds closely with that employed by business men.

The classical distinction between rent and other forms of income from property is retained by a large number of economists, who find in it a useful basis for reforms in taxation. These economists, as a rule, extend the conception so as to include the gains of permanent monopoly, whether based on land ownership or not.

See CAPITAL AND CAPITALIZATION; COST, ECONOMIC; TAX, SINGLE; TAXATION, PRINCIPLES OF; UNEARNED INCREMENT.

References: D. Ricardo, *Principles of Political Economy* (Gonner, Ed., 1891), ch. ii; A. Marshall, *Principles of Economics* (5th ed., 1907), Bk. VI, ch. ix; F. A. Fetter, *Principles of Economics* (1905), ch. x; J. B. Clark, *Distribution of Wealth* (1899), chs. xiii, xxiii; F. Wieser, *Natural Value* (1893), Bk. III, Pt. ii,

ALVIN S. JOHNSON.

REPEATERS. Electors who register their votes at several different polling places at the same election or who vote at more than one place.

O. C. H.

REPORTS OF COMMITTEES. The constitutions of a few of the American states require that every bill shall be referred to a committee and reported back to the house within a certain time. The rules of most of the legislatures require all bills to be so referred though they do not generally require reports to be made on everything referred. In practice, bills are rarely passed without having been referred to and reported upon by a committee except occasionally during the last days of the session (see COMMITTEE SYSTEM). In American legislative bodies, the action of a committee may take any one of the following forms: (1) it may make a favorable report with the recommendation that the bill referred to it be passed; (2) it may amend the bill and recommend that it be passed as amended; (3) it may report adversely with a recommendation that the bill be not passed; (4) it may delay action and report so late in the session as to prevent consideration of the report; and (5) it may "pigeon hole" the bill, that is, make no report at all. The rules of the national House of Representatives require that all reports, with certain exceptions, together with the views of the minority, shall be delivered to the clerk to be printed and referred to the proper calendar under the direction of the speaker, provided that bills reported adversely shall be laid on the table, unless the committee reporting it shall at the time, or any member within three days thereafter, request its reference to the calendar, when it shall be so referred (see CALENDAR OF LEGISLATIVE BODIES).

To prevent the alleged abuse arising from the practice of "smothering" bills by the committees to which they have been referred, the national House of Representatives, in 1911, established a "calendar of motions to discharge committees" and provided that any member might present to the clerk a motion in writing to discharge a committee from further consideration of any public bill or joint resolution which may have been referred to such committee fifteen days prior thereto (Rule XXXIV). Committee reports may usually be called only at certain times, determined by their place on the calendar. In most legislative bodies, certain committee reports, on account of their importance, are always privileged, that is, they may be presented at any time. Thus the rules of the national House of Representatives provided that the committee on rules, the committee on elections, the committee on ways and means, the committee on appropriations and a number of others shall have leave to report measures to the House at any time.

The duty of preparing the report usually devolves upon one of the members, most frequently the chairman, by whom it is generally presented to the house. When a report has been presented to the House the committee has discharged its function and it is thereupon dissolved and can act no more without new authority. A practice has grown up in American legislative bodies, though it is unknown to the procedure of the British Parliament, of allowing those members of a committee who refuse to concur in the report, to present to the house their views through what is commonly known as the minority report. As stated above, the rules of the national House of Representatives allow this to be done and require that the views of the minority shall be printed as a part of the report.

See CALENDAR; COMMITTEE SYSTEM; CONGRESS; MINORITY REPORT; RULES OF CONGRESS; RULES OF LEGISLATIVE BODIES; SPEAKER; STATE LEGISLATURE.

References: M. P. Follett, *The Speaker of the House of Representatives* (1902), ch. ix; L. S. Cushing, *Law and Practice of Legislative Assemblies* (1907), Pt. VII, ch. viii; A. C. Hinds, *Parliamentary Precedents of the House of Representatives* (1899), ch. x, *Digest and Manual of Rules of House of Representatives* (1908), 551, 672; L. G. Monachie, *Congressional Committees* (1898), 172-190; P. S. Reinseh, *Am. Legislatures and Legislative Methods* (1907), ch. v. JAMES W. GARNER.

REPORTS OF DEBATES AND PROCEEDINGS. See CONGRESSIONAL RECORDS; PUBLICATIONS, GOVERNMENTAL.

REPORTS OF HEADS OF DEPARTMENTS AND SUBORDINATES. Annual reports are submitted by the head of each department to the President and by him are transmitted to Congress and are printed as documents. The report of each secretary is accompanied by reports made to him by chiefs of the divisions into which the department is subdivided. The report of the Secretary of Agriculture is in two parts; of the second part, containing matters of particular interest to farmers, 500,000 copies are printed. Either house of Congress, by resolution, may call on the heads of departments for reports on special subjects, which reports are addressed to the presiding officer of the House making the call. When committees of Congress refer bills to the departments for examination and report, the reports are addressed to the chairman of the committee. See Departments by name. Reference: *Stat. at Large*, XXIII (1895); also statutes creating the executive departments. C. M.

REPORTS OF JUDICIAL CASES. The force that is given in England and the United States to judicial precedents and the fact that the greater part of the laws that determine

the private rights of persons and property are the product of, and are to be found embodied in, the decisions of the courts, make it imperative that these cases should be reported and published and made accessible to all. This applies only to courts of record and especially to the highest courts of each jurisdiction. Thus in each state a series of judicial reports have been issued. In earlier years it was customary to designate these volumes by the names of their several reporters. For some years now, however, the volumes have been numbered, these numbers running back to the first volume issued. In general, however, the practice is still to cite the earlier volumes by the names of the reporters originally given them. Similarly the decisions of the federal courts have been issued in serial volumes. The most important of these series is, of course, that containing the reports of cases decided in the Supreme Court. These, like those of the states, were for many years designated by the names of their reporters. These names, their abbreviations, and periods covered, are as follows:

Reporters	Abbreviations	No. of Vols.	Period Covered
Dallas -----	Dall.	4	1790-1800
Cranch -----	Cr.	9	1801-1815
Wheaton -----	Wh. or Wheat.	12	1816-1827
Peters -----	Pet.	16	1828-1842
Howard -----	How.	24	1843-1860
Black -----	Black	2	1861-1862
Wallace -----	Wall.	23	1863-1874

Since 1874 the volumes have been numbered, beginning with volume 91, and designated as *United States Reports*, the abbreviation for citation being simply "U. S.," *e. g.*, "*Murdock vs. Ward*, 178 U. S. 139." Various editions of these Supreme Court reports have been issued, but besides the regular, or as it is sometimes called the official set, the best known edition is that entitled the *Lawyers' Edition* (abbreviation, L. ed.) containing in each volume four volumes of the single volume set. For some time now, four volumes of the single volume set have been issued each year, which means, of course, that each volume of the *Lawyers' Edition* now covers one year—that is, not one calendar year, but one term of the Supreme Court, extending from the fall of one year to the early summer of the next. At present (1911) this series embraces fifty-four volumes. This set also includes abbreviations and notes analyzing all cases, state and federal, which have cited the various cases reported. An accompanying digest, in six volumes, summarizes in alphabetical arrangement, the principles determined in the volumes 1-206 of the U. S. Reports. The same company which issues the *Lawyers' Edition* has also issued the current decisions of the Supreme Court in semimonthly advance sheets. Since 1882, also, another firm has published the current decisions of the court in a semimonthly publication known as

the *Supreme Court Reporter*, this *Reporter* being bound up each year into volumes.

The cases decided in the inferior federal courts during the period 1789–1880 have been published by a commercial firm in a set of thirty volumes. Since then they have been currently reported in a weekly serial known as the *Federal Reporter*, which, in bound form, already numbers about two hundred volumes. There have also been issued official reports of the decisions of these inferior federal courts.

The firm which issues the *Supreme Court Reporter* and the *Federal Reporter* has also for some years reported, in current advance sheets, later bound into volumes, the decisions of all the higher courts of the states. The names of these *Reporters*, the dates of their establishment, and the states covered by each, are as follows: *Northeastern Reporter*, established 1885, Massachusetts, New York, Ohio, Indiana, and Illinois; *Northwestern Reporter*, established 1879, Michigan, Wisconsin, Minnesota, Iowa, Nebraska, North Dakota, and South Dakota; *Pacific Reporter*, established 1883, California, Oregon, Kansas, Colorado, Nevada, Montana, Wyoming, Washington, Idaho, Arizona, Utah, New Mexico, and Oklahoma; *Atlantic Reporter*, established 1885, Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New Jersey, Pennsylvania, Delaware and Maryland; *Southwestern Reporter*, established 1886, Kentucky, Tennessee, Arkansas, Missouri and Texas; *Southeastern Reporter*, established 1887, Virginia, West Virginia, North Carolina, South Carolina and Georgia; *Southern Reporter*, established 1887, Florida, Alabama, Mississippi, and Louisiana. Summarizing alphabetically the principles stated in the thousands of cases decided in the state courts since the dates of their first establishment there has been published a *Century Digest* in a series of huge volumes covering the period from 1658 to 1896. Supplementing this there is what has been denominated the *Decennial Digest* covering the years 1897 to 1906, since which latter date there have been issued *Annual Digests*.

In addition to the reports of federal decisions which have been mentioned there are issued reports of the United States Courts of claims (since 1863) and also volumes of administrative decisions, as, for example, of the Interstate Commerce Commission (since 1887), of the Commissioner of Public Lands (since 1881), Patent Decisions (since 1869), and Pensions Decisions (since 1866). Volumes of the *Advisory Opinions* of the Attorney General of the United States have been issued from time to time. These volumes now number about thirty.

A final word should be said regarding the form in which cases are reported. In addition to the prevailing and dissenting opinions of the courts, the facts of the case, when not adequately stated in the opinions themselves, are summarized. This of course is essential, for

these facts determine the scope and character as precedents of the propositions of law stated in the opinion (*see* CASES, SIGNIFICANCE OF, IN CONSTITUTIONAL LAW). Each case is also prefaced by a summary of the points decided, which is known as the syllabus. This syllabus is sometimes prepared by the judge, and sometimes by the reporter. In either case, however, the propositions for which the case stands as a precedent are to be determined by an examination of the opinions themselves taken in connection with the facts as stated. In many instances, abstracts of the briefs of counsel are given.

The opinions of the higher English courts are of persuasive force in the United States both with reference to questions of common law and of the interpretation of substantially similar statutes. The reports of these cases have been issued in various series, the names and character of which it is not necessary here to describe. It may be mentioned, however, that there is now in course of publication a verbatim reprint of the most important reports prior to 1865. Of this reprint series, seventy-one volumes containing decisions of the House of Lords, Privy Council, Chancery, Rolls Court and Vice-Chancellors have appeared, together with some forty volumes of the cases decided in the King's Bench and Queen's Bench.

See CASES, SIGNIFICANCE OF, IN CONSTITUTIONAL LAW; COURTS, FEDERAL; STATE JUDICIARY.

References: J. W. Wallace, *The Reporters, Chronologically Arranged* (3d ed., 1855); S. E. Baldwin, *The Am. Judiciary* (1905); E. Wambaugh, *The Study of Cases* (2d ed., 1894); C. C. Soule, *Lawyers' Reference Manual* (1883).
W. W. WILLOUGHBY.

REPRESENTATION, MINORITY. *See* MINORITY REPRESENTATION.

REPRESENTATION, PROPORTIONAL. *See* PROPORTIONAL REPRESENTATION.

REPRESENTATION, THEORY OF. The modern theory of representation is based upon the doctrine that society is composed of free and equal individuals, and that all representatives should be chosen in districts embracing an equal number of inhabitants or, in some cases, voters. This theory has generally supplanted the older notion of class representation (*see* REPRESENTATIVE GOVERNMENT). While this doctrine of equality involves a generous estimate of the moral worth of every individual and thus finds its ethical justification, it overlooks the fact that modern society is socially stratified, and that a great deal of legislation is designed for the benefit and protection of particular groups and classes. It has not been carried, however, to its logical conclusion in any modern legislative assembly. In England, the principle of

equal electoral districts is only roughly applied in the House of Commons; the principle of periodic reapportionment is not accepted; and the House of Commons is checked by the House of Lords. The principle of substantially equal districts is recognized in the House of Representatives of the United States; but here the numerical element is controlled by the Senate representing states in their corporate capacity. In the formation of state legislatures the principle is enunciated in one-third of the state constitutions; but in every state concessions are made, either in one or both houses of the legislature, to county, city, and other local lines thus marring the symmetry of apportionment. In some states, particularly in New England, the concessions to local units of government are so great as to establish practically a system of rotten boroughs; and in other states discriminations are made against urban inhabitants to the advantage of rural districts.

Although the inequality in electoral districts is generally criticised by the political parties which suffer from the discriminations, the doctrine of equal electoral districts does not occupy a position of prominence in contemporary political literature. Moreover, the degree to which the doctrine of equality is applied will not depend so much upon theoretical justification as upon the tenacity with which localities adhere to their special advantages in this regard, and the nice play of political interests in their contest for supremacy.

Coupled with equal election districts is the question of how far the representative is to be regarded as a mere agent of his constituents and how far he is free to make his own determinations in the legislature. Some writers accept Burke's theory that the representative is chosen by a constituency, but acts in the name of the whole nation. This theory of course overlooks the fact that in practice the representative is usually considering measures which involve group and class interests rather than the whole nation. But it undoubtedly has an element of value, though, if strictly applied, it would not only release the representatives from obligations to their constituents, but would lift them from that close contact with practical life which is so necessary for the sound adjustment of legislation to concrete social conditions. In the United States and in France, particularly, the opposite principle that the representative is bound to look after the interests of his district is carried to an extreme which has a decidedly bad effect upon the character of legislatures. It has a tendency to transform the representative into an agent of the most active group or groups among his constituents, and to consume his time and energy in log-rolling (*see*) and other legislative enterprises looking to the benefit of his particular district. This problem of securing a proper

dependence of the representative upon the will of his constituents and at the same time preventing his transformation into a local politician of a very petty type, constitutes one of the most serious questions of modern representative government. The two reforms which promise most are the propositions to remove all patronage (*see*) from the hands of the representative and to make it impossible for the individual representative to introduce measures carrying a charge upon the public treasury.

See POPULAR GOVERNMENT; REPRESENTATIVE GOVERNMENT.

References: J. W. Garner, *Intro to Pol. Sci.* (1910), 458; J. S. Mill, *Considerations on Representative Government* (1875); W. Stubbs, *Constitutional History of England* (1897), II; H. J. Ford, *The Cast of Our National Government* (1911).

CHARLES A. BEARD.

REPRESENTATIVE GOVERNMENT. Historical Origins.—Representative government differs from pure democracy. It implies a legislative assembly composed of agents selected by, and acting in the name of, groups of voters, inhabitants, classes, or communities. Pure democracy, on the other hand, means a legislative assembly composed of all the qualified electors within a given political community. It is in the origination and development of representative government that the western, or so-called Teutonic, nations differ from ancient and oriental nations. The latter do not seem to have had any conception of a possibility of agency in the development of their legislative assemblies. Historians of the Teutonic school have ascribed the origin of representative government to the peculiar political genius of the Germanic race; and have sought it far back in the records of that people. This theory rests, however, upon a very slender foundation. It was claimed by Stubbs and scholars of less learning that the early Anglo-Saxon assemblies were representative in character, being composed of delegates from each township within the county or hundred. Later investigations show, however, that there is not one single authentic document to support this view. On the contrary, the use of the representative agent from the townships seems rather to be connected with the *inquisitio* as used by the Norman kings for fiscal and inquisitorial purposes; and thus is directly connected with an ancient Roman process. Nevertheless the use of the representative or agency idea on a large scale for provincial and national assemblies was limited in its origin to western nations; but it was by no means confined to those that were most purely Teutonic in composition. Indeed, one of the first representative assemblies on an important scale was called in Aragon in the year 1162. During the two centuries which followed, representative assemblies sprang up all over western Europe

and even in Russia. In 1213 King John of England called four discreet men from each county to speak with him concerning the business of his kingdom. And in 1265 Simon de Montfort called a Parliament consisting of representatives from the counties and several of the cities and boroughs in England. These early assemblies differed among themselves widely in the degree of representation afforded to communities and classes; for it was a long time before the doctrine developed that representative government implied equal electoral districts and a widely extended suffrage. Moreover, in the beginning, these representative assemblies had a more or less precarious existence; for they were called and used by monarchs at their pleasure, and were employed largely for the purpose of voting taxes. The composition of these assemblies, and the towns and districts represented, were determined at the pleasure of the monarch who called them. And it was only in England that the Parliament, embodying the representative element, had an unbroken development from its origin in the thirteenth century to the present, and even this English Parliament threatened to disappear several times owing to the unwillingness of the kings to incur the danger of a collision with a more or less restive body. Out of its power over the purse the representative body finally secured a practical sovereignty in England. On the continent, however, representative institutions which had sprung up in the middle ages perished everywhere except some local assemblies. It was not until after the French Revolution and the democratic upheaval which followed, that parliaments were reestablished on a new footing in the European nations.

Transition from Class to Individual Representation.—In examining the nature of representative institutions, one is struck with the great variety of forms and practices. Generally speaking, representative assemblies, in their origin, were composed of the three great classes, clergy, nobility and third estate. This class division was sharply maintained in France until the Revolution. In England, however, the representatives from the boroughs and those chosen by the landed gentry of the counties, were welded together in one body—the House of Commons; while the representatives of the clergy, with the exception of the high dignitaries who joined the lay barons in the House of Lords, formed a separate convocation of their own. With the French Revolution, the idea of the representation of classes and communities was more or less supplanted by the doctrine of representation of individuals. In progressive societies older communalism was supplanted by individualism: and as a natural consequence pure representative government came to imply the representation of equal numbers of individuals. The notion of representing communities as opposed to equal numbers

of inhabitants was adopted in the American colonies where representative government was early instituted and vigorously developed. With the extension of the suffrage early in the nineteenth century a movement was set on foot for the establishment of equal electoral districts, but it has by no means carried the day in the United States or, in fact, in any other country (*see REPRESENTATION, THEORY OF*).

Decline in Representative Government.—A generation ago it seemed that representative government, implying a widely extended suffrage and the distribution of representatives with reference to population, was so firmly established as to be beyond question; but an examination of recent political literature shows no little uncertainty as to the perfection and finality of that system. In France, the representation of classes has been seriously proposed by publicists and by advocates in the parliament. In Switzerland, the initiative (*see*) and referendum (*see*) have been widely adopted; and in England, owing to the groupings in the House of Commons and the disproportionate amount of influence enjoyed by the minority holding the balance of power, the referendum on matters of national importance has been advocated by some of the most conservative statesmen. In the United States, nothing has been more remarkable than the decline of representative assemblies in popular esteem. The history of state constitution-making is the record of growing limitations imposed upon legislatures owing to the lack of public confidence in their wisdom and common honesty. In the first state constitutions the legislature was supreme. Today the legislatures everywhere are hampered by prolix restrictions; the governor enjoys the veto power in every state except one, North Carolina: it is the executive rather than the legislative branch that now excites popular confidence and enthusiasm; and almost one-third of the commonwealths have supplemented their representative systems with the initiative and referendum in some form. Official revelations of legislative corruption became so common in the first of the twentieth century as to excite little public interest. The general estimate of state legislatures is probably lower than it should be, and the amount of honest and disinterested legislative service is by no means appreciated. Nevertheless the extent of influence enjoyed by large corporations in legislative assemblies and the vice of log-rolling, coupled with the constant necessity which every representative is under to nurse his district, have so reduced legislative assemblies in popular esteem as cause those who are working for improvement in American legislative conditions to rely for relief rather upon the governor or upon some system which secures to the people power of initiative (*see*) and referendum (*see*), or both.

See DEMOCRACY, HISTORY OF: POPULAR GOVERNMENT: LEGISLATION, DIRECT; REPRESENTATION, THEORY OF.

References: W. Stubbs, *Constitutional Hist. of England* (1897), II; C. A. Beard, *Am. Government and Politics* (1910), ch. v; J. R. Commons, *Proportional Representation* (2d ed., 1907); J. W. Garner, *Intro. to Pol. Sci.* (1910), ch. xiv. CHARLES A. BEARD.

REPRESENTATIVES, ELECTION OF.

Candidates for election to the House of Representatives (*see*) are nominated by conventions (*see*) or direct primaries (*see* PRIMARY, DIRECT). Choice by conventions, composed of delegates from the local units in the congressional district, used to be the universal custom; but in most parts of the country, especially in the southern and western states, it has now been replaced by the direct primary, this being a preliminary election within each party for the purpose of which candidates have their names put upon the ballot by petition or payment of a nominal sum. The regular elections are held in even years. There is no national suffrage, except in the limited supervision granted to Congress by the Fourteenth and Fifteenth Amendments (*see*). Under the Constitution the voters are those who, in each state, have the right to vote for the more numerous branch of the state legislature. Although Congress may alter or entirely override the regulations made by state legislatures as to the times, places and manner of holding the elections, this power was not exercised till 1842. The Apportionment Act of that year provided that members should be elected by districts instead of by general ticket (*see* APPOINTMENT; DISTRICT SYSTEM). These districts, which are marked out by the state legislatures after each reapportionment of members, must now consist of contiguous and compact territory and contain as nearly as feasible an equal number of inhabitants—requirements which are not usually obeyed to the letter (*see* GERRYMANDER). In 1871 Congress introduced vote by ballot and in 1872 fixed the Tuesday after the first Monday in November as election day, later allowing certain states to continue holding their elections at an earlier date. The national authority was greatly extended in the case of the "force bills" (*see*) of 1871-72 which, mainly intended to protect negro voters in the South, permitted the presence of federal supervisors at the polls and the use of federal troops for their support; but they were soon weakened by amendment and judicial decision and repealed altogether in 1894. In 1910 and 1911 two important acts were passed for the purpose of eliminating corruption. The first requires all organizations, like the national committees, which try to influence the congressional elections in two or more states to file itemized accounts of all contributions received or promised. The sec-

ond requires all candidates to file before the primaries and elections a statement of all expenses incurred and all promises and pledges made. No sum larger than \$5,000, or ten cents for each voter in the district may be spent; and no candidate "is permitted to promise any influence or support to any person for the purpose of securing the support of such person" (*see* CORRUPT PRACTICES ACT). The House is sole judge of the election and qualifications of its members (Cont. Art. I, Sec. V, ¶ 1). In practice (as in the case of Brigham H. Roberts who was excluded on the charge of polygamy), it has added to the qualifications laid down in the Constitution—that a member shall be twenty-five years of age, seven years a citizen, an inhabitant of the state in which he is elected and not a federal office-holder. The custom which requires a member to reside in the district which he represents has, of course, no legal sanction and would not be enforced by the House (*see* QUALIFICATIONS FOR OFFICE). The procedure in contested elections is regulated by a statute which the House, in view of its constitutional power, may at any time set aside. Elections (*see* ELECTIONS, CONTESTED) are seldom contested, not because grounds are wanting, but because the cases are usually decided by partisan vote and the decisions reached only fifteen or twenty months after the election. When vacancies occur—through expulsion (*see*), resignation (*see*), death or other cause—the governor of the state concerned may call a special election or hold the choice of the new Representative over till the next regular election.

See CONGRESS; ELECTION SYSTEM IN THE UNITED STATES; ELECTIONS, FEDERAL CONTROL OF; HOUSE OF REPRESENTATIVES; SUFFRAGE

References: C. A. Beard, *Am. Government and Politics* (1910), 231-239; J. Bryce, *The Am. Commonwealth* (4th ed., 1910), I, 126-130, 191-200; A. B. Hart, *Actual Government* (1909), 221-225; P. S. Reinsch, *Am. Legislatures and Legislative Methods* (1907), 6-17, 215. CHARLES A. BEARD.

REPRESENTATIVES IN CONGRESS.

Training.—Law-making, like other occupations, requires experience; and this is particularly true in the House of Representatives where the complicated machinery bewilders the uninitiated and destroys the usefulness of new members during a great part of their first term. Yet until very recently half the members lost their seats at each election. There are several reasons for this. The most obvious is the survival, in corrupt form, of the old doctrine of rotation, of the belief that almost any man may be a competent law-maker without training and that good places should be passed around as rewards for faithful party service. Nevertheless, reflection is growing much commoner. Thus while only fifty-three per cent of the members in the Forty-second

Congress (1871) had sat before (their average term being four years), the percentage in the Sixty-second was seventy, with an average term of nearly eight years. The comparison is still more striking in respect of those who have served five terms or more: six per cent in the Forty-second Congress, twenty-two in the Sixty-second. The constituencies, or rather the party organizations which manipulate them, are coming to see that it is profitable to keep the same members at Washington. They want legislative favors, government patronage, appropriations for local improvements; and as the House promotes to places of power and leadership those who have proved themselves by long service, the idea of short terms is passing away. This naturally means an increase of efficiency. It should be noted that most of the members have acquired some experience in the business of government before coming to Congress. Three quarters of them (62d Cong.) have sat in state legislatures or held executive or judicial office. The proportion was almost precisely the same in the Forty-second Congress, the only difference being this: that whereas in the latter case more than half the members had served in state legislatures, today little more than a third have done so. In the matter of education it is difficult to get accurate data, as the autobiographies which appear in the *Congressional Directory* are sometimes obscure on this point. Of the 391 members in the Sixty-second Congress something like a score seem never to have had a regular schooling. Nearly two-thirds proceeded to some sort of higher education in professional schools or colleges, though the colleges were in not a few cases little better than high schools. The average age is just under fifty years. Most of the members may be classified as professional politicians, though they all have or had other occupations. Two-thirds are lawyers, as has been the case for many years past (sixty-three per cent in the Fiftieth Congress). Sixty-three members may be counted as capitalists, twenty-four as agriculturists, eighteen as journalists (as compared with sixty-three, twenty-three and thirteen in the previous Congress). There are two men of the laboring class. Only eleven are foreign born. Under the Constitution federal office-holders, civil and military, are debarred from the House (Art. I, Sec. vi, ¶ 2).

Capacity.—It is probably true that the House of Representatives, in the average capacity and intelligence of its members, compares not unfavorably with other great assemblies. Since nearly all have made their own way in the world, without the advantages of inherited wealth, they are usually shrewd, energetic and forceful. But men of light and leading who have large views and high ideals and who can inspire the rank and file with better ambitions than log-rolling and parliamentary strategy seldom appear and, when they do, are likely to be drawn off to the

Senate where unusual ability and independence find more scope. Men of distinction seldom care to enter the House. They prefer to make their mark as managers of railroads or other great corporations, leaders of the bar, engineers, writers; or to enter public life as the holders of executive office of some kind. The fact is that in spite of the rapid increase of national authority since the Civil War the House has not advanced in the public estimation. As Mr. Bryce says, the burden of proof that he is not a jobber rests with the member himself. Suspicion is created by the very circumstances of his position: for the public cannot watch his conduct in the privacy of the committee-room at whose doors the powerful lobby is always knocking, or entertain much respect for the corrupt process of log-rolling or the lack of sincerity so often apparent in speeches and votes. Nor does the House offer much in the way of a career for the ambitious. The Representative is enslaved not only by the rules of procedure, but also by his constituency. The popular custom which requires him to be a resident of his district fits in naturally with the subservience which is expected of him, even to the point of forming his judgments in conformity with the will of his constituents. The House does not lead, it follows public opinion, and follows very cautiously. Even for the man who is ready to endure these galling restrictions on his independence, there is little promise for the future. His reelection is doubtful. The chance of his climbing to the Senate is small. Certainly Presidents are not chosen from the House; nor are the heads of departments, only one member of President Taft's Cabinet in 1911 having sat in the House.

These are some of the facts which explain the dearth of great men. They are forcibly expressed by an eminent critic of our institutions, M. Ostrogorski, in *Democracy and Political Parties*, II, 544.

The standard of the Representatives and their political manners have undoubtedly deteriorated. The men who find their way into the assembly are those who have succeeded in "getting the delegates," or in ingratiating themselves with the machine or with the boss. All their habits and their political methods have, consequently, been formed by the practice of the petty expedients, of the paltry combinations and compromises on individuals and interests, of the "deals," which are the life-breath of the primaries and conventions. The custom which confines the choice of candidates to local residents helps to narrow the political intelligence and to lower the morality of the people's representatives. And these men enter Congress as the slaves of the machine and the boss, of sordid parochial considerations, or of powerful private interests, industrial or financial, which are so often in league with the machine.

See CONGRESS; HOUSE OF REPRESENTATIVES; LEGISLATURE AND LEGISLATIVE REFORM.

References: C. A. Beard, *Am. Government and Politics* (1910), X, ch. xiv; J. Bryce, *Am. Commonwealth* (4th ed., 1910), I, 129-131, 147-151, 201-203; *Congressional Directory* (each Congress).

CHARLES A. BEARD.

REPRIEVE. The chief executive to whom is granted the pardoning power may withdraw or withhold punishment for a time after conviction and sentence, and this is a reprieve. It is temporary in its character and the sentence may be executed without further order of the court when the time of the reprieve has expired. The court also may grant a reprieve in a capital case for a ground recognized by law, such as that a woman sentenced to death is quick with child or that a prisoner has become insane. See **AMNESTY**; **PARDON**.

E. McC.

REPRISAL. See **MARQUE AND REPRISAL**.

REPUBLIC. A republic may be defined as a state in which the sovereign power rests in the people as a whole but is exercised by representatives chosen by a popular vote. History, however, furnishes examples of an infinite variety of states to which the term republic has been applied, and, in the strictest technical sense there were monarchic, aristocratic, and democratic republics. It is therefore very important in defining any species of government to distinguish between form and nature or character. Madison in the *Federalist* says "The two points of difference between a democracy and a republic, are, first, the delegation of the government, in the latter to a number of citizens elected by the rest; secondly the greater number of citizens, and the greater sphere of country over which the latter may be extended." John Adams however thinks this distinction cannot be justified; while Jefferson held that "the first principle of republicanism is that the *lex majoris partis* is the fundamental law of every society of individuals of equal rights; to consider the will of society as enounced by the majority of a single vote, as sacred as if unanimous."

The Federal Constitution provides that "The United States shall guarantee to every state in this Union a republican form of government" but it does not define the term republican (Art. IV., Sec. iv). But it must mean in the United States today what it meant in the preëxisting states when the Constitution was framed in 1787, and it is evident that the states admitted since then are republican in form. It follows then that a republic in the modern sense is a government which derives all its powers directly or indirectly from the great body of the people, i. e., the majority, and is administered by persons holding their office for a limited period. It rests upon "equality which is the soul of republics;" not that equality which rebels against superiority of fortune and merit but upon a political equality which implies civil liberty.

The definition here given would exclude many of the ancient, and some of the modern historical republics from the category of true republics. Sparta, Athens and Rome were

called republics, but their limited franchise gave them an aristocratic character. Venice was styled a republic though absolute power was exercised by a small body of hereditary nobles. Poland was a mixture of aristocracy and monarchy in their worst forms, though it was dignified by the same appellation; and the republic of Mexico under Diaz was virtually an absolute monarchy, while many of the South American republics are such only in name.

See **REPUBLICAN FORM OF GOVERNMENT**; **STATES, CLASSIFICATION OF**.

References: J. K. Bluntschli, *Theory of the State* (6th ed., trans. 1885), ch. xxii; H. S. Maine, *Popular Government* (1886); W. W. Willoughby, *The Constitutional Laws of the U. S.* (1910), I, 151-156; F. H. Giddings, *Democracy and Empire* (1900), 251-290; J. W. Garner, *Intro. to Pol. Sci.* (1910), 126, 169-176.

KARL F. GEISER.

REPUBLICAN FORM OF GOVERNMENT.

The definition of a republican form of government is constitutionally important for the reason that the Federal Government is obligated to guarantee governments of this character to the states (Const. Art. IV, Sec. iv). This guarantee works both ways. Upon the one hand it obligates the states to maintain governments republican in form, and permits the Federal Government to interfere in case they fail to do so; and, upon the other hand, it obligates the Federal Government to lend its aid to the states, when requested, for the maintenance of republican institutions. The Constitution does not define, and the courts have not attempted to give an exact and comprehensive definition to a republican form of government. The definition given by Judge Cooley in his *Principles of Constitutional Law* has, however, been generally recognized as a substantially accurate one. "By a republican form of government" he says "is understood a government by representatives chosen by the people; and it contrasts on the one side with a democracy, in which the people or community as one organized whole wield the sovereign powers of government, and, on the other side, with the rule of one man, as king, emperor, czar, or sultan, or with that of one class of men, as an aristocracy." A strict adherence to this definition makes constitutionally questionable the validity of direct legislation (*see*) laws in the states as tending to establish a democratic, as distinguished from a republican, form of government; and, indeed, in certain cases the state courts have so held. In *Luther vs. Burden* (7 Howard 1) it was held by the Supreme Court that the general question as to the *de jure* character of a state government is one the determination of which by the political departments of the government is binding upon the courts, and in the *Pacific Telephone Case* cited below, the court likewise held that the

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question whether the referendum and initiative are consistent with a republican form of government is one for determination by the political branches of the government.

It will be observed that the constitutional guarantee is simply that the state governments shall be republican in form. Whether or not, under such governments, the popular will is, in actual result, obeyed, is thus irrelevant. It may also be added that the sphere of the activities and consent of the government, whether limited to police functions or socialistically extended, is equally without significance in de-

termining its republican or non-republican form.

See LEGISLATION, DIRECT; POLITICAL QUESTIONS; POPULAR GOVERNMENT; REPRESENTATIVE GOVERNMENT.

References: J. W. Garner, *Introduction to Political Science* (1910), 175 *et seq.*; *Federalist*, Nos. 10, 14, 39; W. W. Willoughby, *The Nature of the State* (1896); T. M. Cooley, *Principles of Constitutional Law* (3d ed., 1898), ch. xi; *Pacific State Teleph. and Teleg. Co. vs. Oregon* ([1912] 32 U. S. 224).

W. W. WILLOUGHBY.

REPUBLICAN PARTY

The Formative Period.—The present Republican party in America had its origin in the years 1854 and 1856. It was organized for the purpose, primarily, of resisting the extension of slavery. The event in American history that immediately led to its appearing in the field of politics, was the repeal, in 1854, of the Missouri Compromise of 1820 (*see* COMPROMISE OF 1820), or the part of that famous compromise restricting slavery in the Louisiana Purchase above the historic parallel of 36° 30'. For thirty-four years the Missouri restriction had stood and after the settlement by the Compromises of 1850 (*see*) of the violent controversies over slavery resulting from the Mexican cessions of 1848, it was supposed that the status of every foot of American soil as to slavery was determined, and the people of the North were ready to settle down in general acceptance of these compromises in the hope of having peace on the subject of slavery.

Their anticipated repose was rudely disturbed by the repealing act of 1854, known as the Kansas-Nebraska Act (*see*) which, judged by its results, is one of the most important acts in American legislative history. The great majority of the northern people felt that an old landmark had been disregarded, that an anti-slavery barrier had been struck down, while the more ardent anti-slavery spirits asserted that a "sacred compact" of a former generation had been disregarded by an aggressive slave power that intended to rule the republic. The act made the restriction of slavery the dominant issue in American politics, while the popular protest with which it was met caused a notable break-up of parties. It divided the Democratic party (*see*), all but annihilated the Whig party (*see*), and led the more radical leaders of the Free Soil (*see*) party to merge their forces with others into one body whose dominant purpose should be to restore the Missouri restriction, to keep slavery within the bounds in which it then was, and to resist its further extension into

the territories. Men of all parties were called upon to unite for this cause, and this call brought the Republican party into being.

Constituent Elements.—There were, as has been indicated, three constituent elements of the new party: (1) the Free Soilers (*see*); (2) the Anti-Nebraska Democrats (*see*); (3) the Anti-Nebraska Whigs, comprising the great majority of northern Whigs and much the largest element of the new party. The Republican party, therefore, represents a new party, a union of these elements, who were called upon to sink all previous differences on the historic-economic issues—banks, tariffs, internal improvements, executive veto, constitutional construction, etc., that had been dividing Whigs and Democrats since Jackson's day (1828–1832), and to unite in resistance to legalizing slavery by national power in territory that had long been free.

Early Leaders.—Into the new party, therefore, came Democrats led by such men as Lyman Trumbull and John M. Palmer, of Illinois, Oliver P. Morton, of Indiana, George S. Boutwell and N. P. Banks, of Massachusetts, the Blairs of Maryland and Missouri, Preston King, William Cullen Bryant, of New York, and Hannibal Hamlin, of Maine; and Whigs led by men like Schuyler Colfax and Col. Henry S. Lane of Indiana, James W. Grimes, of Iowa, Abraham Lincoln, of Illinois, Jacob M. Howard and Zachariah Chandler, of Michigan, Tom Corwin, Ben Wade and John Sherman, of Ohio, Thaddeus Stevens of Pennsylvania, William H. Seward, Edwin D. Morgan and Horace Greeley, of New York, and George Ashmun, of Massachusetts—together with Free Soilers under the leadership of Charles Sumner, Henry Wilson, Owen P. Lovejoy, John G. Palfrey, Charles Francis Adams, Horace Mann, Edward Wade, George W. Julian, David Wilmot, Salmon P. Chase and Joshua R. Giddings. The anti-slavery life and purpose of the new party was also promoted and sustained by the teachers, the preachers, the prophets, the poets, the philosophers, the literary guides—by the writ-

ings and public speeches of men and women like Henry Ward Beecher, James Russell Lowell, George William Curtis, Emerson, Longfellow, Whittier, Holmes, Harriet Beecher Stowe, Julia Ward Howe, and by the progressive religious and literary journals like the *National Era*, the *New York Independent* and, later, by the columns of the *Atlantic Monthly*. These leaders and their constituencies thus came together from various sources, representing varied dispositions and opinions, some radical, some conservative, some prompted by moral motives, some by political, their only common bond and tenet of faith being, "No further extension of slavery." The political abolitionists and reformers gave the party its idealism and its aggressive radical impulse; the Whigs brought to it able leadership and the spirit of broad constitutional construction; while the Anti-Nebraska Democrats and Free Soilers brought the standards and maxims of Jacksonian and Jeffersonian democracy—firm loyalty to the Union, adherence to the legitimate rights of the states, and a growing popular devotion to the principle of equal rights to all men under the law.

Early History.—The new party came into being from spontaneous movements in various parts of the country. The West was the more fertile field for a "progressive" movement. It was less bound by party machinery and conservative interests and custom. There were various meetings in the spring and summer of 1854 in different parts of the country a notable one in Ripon, Wisconsin, led by A. E. Bovay, who corresponded with Horace Greeley urging a new party and the name Republican; but the most notable meeting and the one whose anniversary is celebrated as the beginning of the party, was that held "under the oaks" a Jackson, Michigan, July 6, 1854. This was a state-wide representative mass-meeting, acting as a state convention, assembled in response to a call signed by several thousand citizens of Michigan inviting the coöperation of all who were opposed to the extension of slavery. The meeting was held in an oak grove on the outskirts of Jackson. The chairman of the committee on resolutions, Jacob M. Howard, wrote and reported a platform of considerable length which was unanimously adopted. It denounced slavery as "a relic of barbarism," as "a great moral, social, and political evil," and asserted that it was the purpose of the fathers of the Republic to prevent the spread of slavery and that it was now the duty of Congress to carry out this purpose by restoring the Missouri restriction. The convention also resolved that, "postponing and suspending all differences with regard to political economy or administrative policy, we will coöperate and be known as Republicans until after the contest be determined." It was also earnestly recommended that there be called "a general convention of the free states and such

of the slave-holding states as may desire to be there represented, with a view to the adoption of other more extended and effectual measures in resistance to the encroachments of slavery."

The Republican Name.—The name Republican was very popular and had been so from the earliest associations of American politics. It was the name that Jefferson preferred for the party that he founded, and the Democratic party had only in recent years dropped the honored affix "Republican" from its name. Indeed, within a decade of the time of which we speak Democratic orators frequently referred to their party as "Republican." Silas Wright called himself a "Republican" in 1846. It seemed now, as if their own name was being stolen and the Democrats so much disliked the assumption of the name by their new opponents that they refused to recognize the right of possession in the new party, and they dubbed its adherents with the opprobrious epithets, "Black Republicans," "Abolitionist Republicans," and "Negro Worshipers." But the new Republicans, contended that the name was especially fitting and proper for them, since they were to call upon the nation to walk again in the path of their Republican fathers who had so persistently and successfully striven to prevent the extension of slavery to western territory by the famous ordinances of 1784 and 1787.

Growth of the New Party.—So popular was the cause for which the new party stood, that in the first year of its existence it carried a popular majority in about half the states and elected a number of United States Senators by combinations in several states; a Congress was elected whose plurality, though composed of diverse elements—Republicans, Anti-Nebraska Democrats, Anti-Slavery Whigs and "Know Nothings" (*see*) elected the first Republican Speaker, Nathaniel P. Banks, of Massachusetts, and the Democrats were unable to regain control of the House and elect another Speaker for a period of twenty years.

First Organization and Conventions.—In the history of parties the organization has generally proceeded not from the federal center but from the local communities and precincts to the nation at large. It was so with the Republican party. The state and local organizations were first effected, and became the basis for the call of the first "general convention," or interstate convention, which had been recommended by Michigan. The call was issued January 17, 1856, by the chairman of nine Republican state committees, for a convention to meet at Pittsburg February 22, 1856—following a custom of new parties in choosing notable national anniversaries for their conventions. This was not a nominating convention nor a convention of regular delegates selected by constituent assemblies in the states. It was a mass convention for conference and

organization, made up of men who favored a new national anti-slavery party and who came as volunteers to the service. Delegates were present from twenty-three states. Francis P. Blair, an old Democrat and an intimate friend of Andrew Jackson, was made permanent president. Henry J. Raymond, editor of the *New York Times*, wrote the address adopted by the convention demanding the repeal of all laws "which allow the introduction of slavery into territory once consecrated to freedom;" proposing "the immediate admission of Kansas as a free state," and denouncing the present pro-slavery Democratic administration. George W. Julian, of Indiana, acted as chairman of the committee on organization and reported a plan of action through which the new party took life, providing for the appointment of a national executive committee, the holding of a national convention in Philadelphia on the 17th of June—the anniversary of the battle of Bunker Hill—to nominate candidates for President and Vice-President, and for the more complete organization of the party in counties and districts throughout the states.

First National Nominating Convention.—In the convention at Philadelphia John C. Fremont (*see*), the "Pathfinder," a military and romantic explorer, who was without civil or political experience, was nominated for President, and William L. Dayton of New Jersey for Vice-President. The party declared it to be "both the right and duty of Congress to prohibit in the territories those twin relics of barbarism, polygamy and slavery." In the fall elections of 1856 Fremont carried all the free states except New York, Pennsylvania, Indiana and Illinois, receiving a popular vote of 1,341,264, and an electoral vote of 113 as against 174 for Buchanan, his Democratic opponent.

Democratic Schism: Leadership of Lincoln.—In 1857 by the *Dred Scott* (*see*) opinion, the Supreme Court affirmed that Congress had no constitutional power to prohibit slavery in the territories. This outlawed the Republican program, and, if assented to, the new party had no ground to stand upon, no reason for being. The Republicans denounced this decision and gave it to be understood that they would seek its reversal, and Lincoln, the courageous and prescient Republican leader rising in the West, representing the Republicans of Illinois and contesting before the voters for Douglas's seat in the Senate, voiced a popular and positive opposition to judicial interference in politics and to the consequent nullification of an anti-slavery policy which the nation might choose to adopt. Lincoln, in accepting his party nomination for the senatorship, set forth his sage diagnosis of the political situation: that the Union, like a house divided against itself, cannot endure permanently half slave and half free; while he did not expect the house to fall or the Union to be dis-

solved, he did expect that it would cease to be divided. "It will become all one thing or all the other. Either the opponents of slavery will arrest the further spread of it and place it where the public mind shall rest in the belief that it is in the course of ultimate extinction; or its advocates will push it forward till it shall be alike lawful in all the states, old as well as new, North as well as South" (June 17, 1858). The early history of the Republican party cannot be understood without some appreciation of the great weight attaching to this speech and to the controversy that followed its utterance. Lincoln sought to lead the people to see that the nation was standing at the parting of the ways. A little later in the year, Seward voiced the same opinion of the crisis in his celebrated "Irrepressible Conflict" (*see*) speech, at Rochester, October 25, 1858—a speech which attracted greater attention and aroused greater opposition than did Lincoln's.

In the same year the Republicans gained by a Democratic schism. Douglas led an insurgent Democratic revolt against Buchanan's policy of bringing Kansas into the Union as a slave state under a constitution not fairly submitted to the voters of Kansas and known to be contrary to her people's will (*see* ANTI-LECOMPTON DEMOCRATS). During Lincoln's contest with Douglas for the Senate (1858) eastern Republicans, Greeley and Seward among them, urged the party in Illinois to withdraw opposition to Douglas' return to the Senate on the ground that Douglas might be the best instrument for opposing the Democratic administration and the slave power, though it had been clearly demonstrated that Douglas had no real purpose to oppose either slavery or slavery extension, since he did "not care whether slavery was voted up or voted down." Lincoln held the party in the West true to its course and its principles, saving it from disaster if not from dissolution by urging the people to elect to power men who did care about the right or wrong of slavery, and by clearly defining and presenting to the people the fundamental issue as between those who thought that slavery was right and ought to be extended and those who thought it wrong and ought to be restricted. Lincoln was as much opposed to the vain and evasive policy of Douglas as he was to the defiant and aggressive policy of Jefferson Davis and Buchanan, and in the famous Lincoln-Douglas debates of 1858 he forced Douglas to the declaration of his "Freeport doctrine" or his doctrine of "unfriendly legislation" in which Douglas asserted the power of a territory, prior to forming a state constitution, to bar slavery by unfriendly police regulations—notwithstanding the *Dred Scott* decision. This alienated the South, added to the breach in the Democratic party, and paved the way to Republican victory in 1860.

The Election of 1860.—In 1860 the Republicans faced a divided opposition and with the assurance of victory thus given the caution and conservatism of the party came to the front. Compared with Seward and Chase, who had been in the forefront of the anti-slavery battle for a decade, Lincoln was looked upon as safe and conservative. He was comparatively unknown and on the plea of "availability" the more distinguished party leaders were set aside, and Lincoln was nominated. The party declared for the principles of the Declaration of Independence—the equality of all men before the law in their right to life, liberty and the pursuit of happiness; for the rights of the states and the union of the states, and they denounced Democratic threats of disunion. Among the rights of the states they asserted the right of each "to order and control its own domestic institutions in its own way," and they denounced "the lawless invasion by armed force of the soil of any State or Territory," referring to John Brown's raid, which had been a source of blame and embarrassment to the party and which its leaders wished thus officially to disclaim. The party declared the "normal condition of the Territories is that of freedom," and that as "our Republican fathers" maintained that status for the early territories, so it was the duty of Congress to maintain it now against all attempts at violation. The platform went farther and denied "the authority of Congress, of a Territorial legislature or of any individuals, to give legal existence to slavery in any Territory of the United States." The party again declared for the admission of Kansas as a free state, and, largely because of the preponderance of its Whig element and the influence of Horace Greeley in his powerful *New York Weekly Tribune*, it declared for a homestead policy, river and harbor improvements, a land subsidy to a Pacific railway, and for such an adjustment of import duties as would "encourage the development of the industries of the whole country." It was in this mild declaration the party first committed itself to the policy of protection.

During the Civil War.—With Lincoln's election the secession movement began, and before his inauguration southern Senators and Representatives had resigned their seats in Congress, the southern Confederacy had been formed, and the country was facing the crisis of a dismembered union and civil war.

By the time of Lincoln's inauguration all efforts to save the Union by compromise had ended. With the beginning of war the paramount issue confronting Lincoln and the Republican party had changed. In 1860 that issue had been the restriction of slavery: it was now the restriction of secession and the saving of the Union. Lincoln sought to lead his party on a conservative course. He officially declared in his first inaugural that he had

"no purpose, directly or indirectly to interfere with the institution of slavery where it exists;" he believed that he "had no lawful right to do so" and he had "no inclination to do so." Congress voiced the same conservative disposition in the notable Crittenden Resolution (see CRITTENDEN, JOHN J.) defining the purpose of the war, July 21, 1861. This was to maintain the Constitution, save the Union, and enforce the laws and was not to make conquest of the states nor to disturb their "domestic institutions." The people were to be called upon to fight and pay, not in a war for abolition, but solely for the Union. On that plain issue all opposing voices seemed stilled, and the North presented the appearance of a political unity. It was clearly not the purpose, of the great body of the Republican party at the opening of the war to overthrow slavery, and it was the party intention as it was that of Lincoln to respect the Constitution in all things and to consider it binding the same in war as in peace.

The political unity that seemed to prevail in the national patriotic uprising that followed the fall of Sumter was not of long duration, Lincoln and his supporters would have welcomed the union of the North in support of the war on a "no-party" basis, but the vigorous use of the war powers and advances toward emancipation startled the old school, strict constructionists and those who detested abolitionism, and there was early manifest a tendency toward a division of the country into two contending party groups—a division that was marked within the Republican party itself and that indicated conflicting tendencies and dispositions toward slavery and the Constitution. (1) The Radicals—the stout anti-slavery men on the one hand, like Chase in the Cabinet, Stevens, Julian, and Lovejoy in the House, Sumner, Wilson, Wade and others in the Senate, who wished on all occasions to strike at slavery, not only as a means of subduing the Confederacy but as an end most desirable in itself; who held that the old Union had been reduced to ruins, that the destruction of slavery was a precondition to the restoration of a new Union, and that to restore the Union with slavery would only leave in the body politic the cause and seeds of civil strife and rebellion. These radicals were always loyal and ardent Union men, but they were anxious to see to it that after the Union was restored by war the "foot of a slave should never again tread the soil of the Republic." To achieve this end they were ready, if necessary, to construe the Constitution most broadly, or to act independently of its restrictions by the assumption of whatever war powers seemed to them necessary. (2) The other wing was made up of the Conservatives. These were unionists who were not particularly anti-slavery in their feelings and interests. They heartily disliked abolitionism

and ultra measures; they were afraid that attacks on slavery would reopen political strife, divide the North, alienate the border slave states (*see*) still in danger of seceding, and detach other support that was needed for the Union cause. They were inclined to apply all the constitutional restraints as recognized in times of peace and would support the war only if it were constitutionally conducted.

Between these two policies and contending forces Lincoln had to steer his course. It was in this and in his readiness to advance only as fast as public opinion would sustain him that he achieved his great success. Lincoln kept before him the integrity of the Union as the "primary object of the war," and while he was ready to employ "all indispensable means" to that end he thought he ought not to be in haste to determine that "radical and extreme measures were indispensable," as these might "reach the loyal as well as the disloyal." He would await the control of events. This brought upon him criticism from the radical anti-slavery wing of the party, a criticism expressed with great force in Greeley's famous open letter in the *Tribune*, "The Prayer of Twenty Millions," in which the great editor brought the charge that the President was too much under the influence of "fossil politicians from the border states" and was showing "too much deference to rebel slavery." Lincoln's classic reply defined his policy toward slavery in his party leadership in the war for the Union. He would save the Union the quickest way possible under the Constitution. What he did or refrained from doing about slavery was prompted by that motive. If he could save the Union by freeing all the slaves he would do that; if he could save the Union by leaving all in bondage he would do that; if he could save the Union by freeing some and leaving others in bondage he would do that.

This was the Union-saving policy of the Republican party. Lincoln, like the party, was naturally anti-slavery. He and his party recognized that the Union must be preserved and all "indispensable means" to that end must be employed.

The events of but little more than a year brought Lincoln and his party to the conviction that the true war policy was to destroy slavery as a means of saving the Union, but every advanced step taken to interfere with slavery or to strain the Constitution caused reaction and political opposition. By the fall of 1862 the Constitutional Union Democrats were in the field contesting the congressional elections with the Republicans. They attacked the administration on account of its "unconstitutional and abolition tendencies." They charged it with administrative corruption, and held it responsible for military failures. They objected to confiscation, arbitrary arrests, the increase of taxes, the draft, emancipation—these and almost every other measure that

had been adopted for the prosecution of the war were denounced as "unconstitutional." They charged that a lawful war for the Union had been turned into an unlawful war for the negro. In the spirit of legalism they insisted upon the forms of the law; they would have only the "Constitution as it is and the Union as it was," and, aroused especially by the growth of executive power, the suspension of habeas corpus and arbitrary imprisonments, they sought to excite in the minds of the people a fear that the war, waged ostensibly for the suppression of the rebellion at the South was being used for the suppression of free institutions at the North. This opposition of the Constitutional Union Democrats was so strong and the reaction so positive that the Republicans almost lost control of the House in the elections of 1862. New York, Pennsylvania, and some of the middle western states came into the control of the "Peace Democrats" (*see* ANTI-WAR DEMOCRATS) and the administration was saved chiefly by the support of New England and the border states.

But Lincoln and his party did not retrace their steps. They continued their anti-slavery policy in the conduct of the war, and in 1863-1864 Lincoln urged upon Congress the policy of making emancipation a finality, by a constitutional amendment, abolishing slavery forever within the jurisdiction of the United States. The Republican party in its national convention of 1864 declared for this policy, denouncing slavery as "the cause and strength of this rebellion;" they asserted that "justice and national safety demand its utter and complete extirpation from the soil of the Republic," and they deemed it neither safe nor fruitful to "negotiate with rebels with arms in their hands." They, therefore, in the campaign of 1864 presented to the country as the vital issue of the hour the vigorous prosecution of the war as the only means of saving the Union. For the sake of rallying all elements to the support of the Union and the war, the party was ready to abandon its name, and the Republicans called themselves in 1864 the "National Union Party" (*see* UNION PARTY) and to emphasize still further their non-sectional and national-union spirit, the party refused Vice-President Hamlin a re-nomination and took up, in his stead, Andrew Johnson of Tennessee—a mistake that caused the party, if not the country, bitter regret in the years immediately following.

It has been claimed that the Republican party in this campaign was a different party from the one that elected Lincoln in 1860. True, it held a different name; it appealed to the country on a different issue; it had a different constituent membership, as many Douglas and Breckinridge Democrats—"War Democrats" (*see*), as they were called, like Dix and Stanton and Butler and Logan—had come into

it. But this merely meant that the Republicans in 1864, were recognizing the paramount issue of the hour and were appealing to the support of all Union men regardless of party. The party of Lincoln in 1864 was the Republican party. Their opponents recognized this and called them Republicans, while calling themselves "Constitutional Unionists." The parties were accomodating themselves to the situation, each changing with the times, and while there are marked historical differences in personnel and purpose in the Republican party at this stage of its life over that of 1860, the changes were those prompted by the temporary problems confronting the party. They were not organic, and the historical continuity in the life of the party was unbroken.

With the decisive reëlection of Lincoln in 1864, the success of the war was assured. Under its policy of liberal construction of the Constitution during the period of war, the Republican party became responsible for, and should be credited with, other policies and acts of legislation—the legal tender currency (*see* LEGAL TENDER; PAPER MONEY); the great war revenue measures; the national banking system (*see* BANKS AND BANKING ACTS, NATIONAL); the homestead (*see* PUBLIC LANDS) policy; the establishment of an Agricultural Department (*see*) and, by land donations, of agricultural colleges (*see* MORRELL GRANT) in the states; government subsidy to the Pacific Railway and the beginning of that great project; and the successful settlement of foreign complications that prevented the interference of foreign powers.

With the conclusion of the war the Republican party gained the prestige that follows success. It had killed secession, crushed the rebellion, destroyed slavery, and saved the Union. The party was quick to assume to itself the credit for these notable results of the war and it had now to address itself to making them permanent in the law and policies of the future. This was its problem in the dire period of reconstruction.

The Party in Reconstruction.—During the war a conflict on reconstruction (*see*) had been foreshadowed within the party. The radical congressional leaders refused to accept Lincoln's "ten per cent plan" and Lincoln defeated by a "pocket veto" the "Wade-Davis plan" of Congress. This was before the election of 1864, and the party, feeling the need of united action in an electoral contest with the opponents of the war, allowed reconstruction to rest until the war was over. Johnson acted, virtually, on Lincoln's policy, regarding reconstruction as wholly an executive problem, and in December, 1865, he submitted to Congress a plan which he had devised and put into operation during the summer and fall of that year. He had recognized the seceding state governments with their old electorate, their old constitutions, their old leadership

(subject to his amnesty) and he had arranged to restore the states to the Union on their so amending their constitutions as to invalidate secession, repudiate the Confederate debt, and accept the Thirteenth Amendment. He assumed that these guarantees, though accepted by the southern states only under duress of executive power and as a means of regaining their full rights of local control, would be fairly and faithfully executed.

The proposal of this plan to a Congress that had never been consulted in its devising aroused a political conflict unsurpassed in the history of Congress. The 39th Congress, elected in 1864, had a large Republican majority. The party had borne the burden and heat and sacrifices of the war. Its northern constituents had been aroused to hatred of slavery, to sore anger by the assassination of Lincoln, and to passion and resentment by what they looked upon as the deep and unprovoked crimes of the rebellion. It now faced a crisis and a division within its ranks—a conflict between its presidential and congressional leadership. It was obvious, from the temper of Congress, the tone of the northern press, and notable speeches made in the fall of 1865 by Radical leaders like Sumner and Stevens, that if Johnson adhered to his "Presidential Plan" of reconstruction he would antagonize and break with the great body of the party that elected him to office. This he did, and in his "Johnsonizing" he carried with him in support of his policy some notable leaders in the Republican party, chief among whom were Seward and Welles in the Cabinet, Doolittle and Cowen in the Senate, and Henry J. Raymond in the House, the latter at the time being the chairman of the party's national committee. If these men, all of whom were acting as Republicans, hoped to induce Congress to accept Johnson's plan of restoration, unmodified by congressional influence or advice, it shows how little they understood the sentiment and purpose of the country and its representatives. The radical Republican leaders in Congress, together with more moderate ones, like Fessenden, Sherman, Morrill and Trumbull, were able to hold the great body of the party in opposition to Johnson. They refused to recognize Johnson's reconstructed states or to admit their representatives to seats in Congress, and they resolved that there should be no such recognition until a joint committee on reconstruction from the two houses should report in favor thereof. The Republican leaders in Congress then applied themselves to a congressional plan of reconstruction that would make secure what they deemed to be the vital and essential results of the war.

In the first place they insisted that the rebuilding of the nation after its destruction by war was a fundamental national problem, in the solution of which Congress should assert its prerogative of

determining the policy to be pursued. There had been an abnormal increase of executive power during the war, but what congressional leaders endured in the emergency of war under Lincoln they were not patient with now. Now that the war was over, Lincoln dead, a "state rights" southern Democrat in the President's chair, and the conservative Seward and his colleagues in the Cabinet tainted with association with Johnson and his policy, radicalism came into more complete control of the Republican party in Congress. Thaddeus Stevens, the masterful Republican leader in the House, with the party majority at his back, now proposed that Congress should assert itself against the President, exercise its due authority and not permit the absurdity and humiliation of having its functions reduced, in a great national emergency, to those of its committee on privileges and elections. If the President had presumed to reconstruct the Union and the states in his military capacity as commander-in-chief, he should be given to understand that Congress was *his* commander-in-chief and that he should obey its will. The Republican party had to choose its course in this impending conflict of powers.

In the second place, the Republican congressional leaders proposed to guarantee more fully the rights and interests of the freedmen. The slaves had been set free by the war, but they were ignorant, helpless, and in poverty, and the reconstructed state governments that Johnson had set up had adopted vagrancy codes that, as was believed, would virtually reduce the blacks again to bondage. Johnson cared but little for the "rights" of the black man, but he held tenaciously to the idea that it was a "state's right" to safeguard the rights and interests of all domiciled within its borders; while the anti-slavery Republicans of the North thought with dread of the negro's fate if left entirely to the tender mercies of the former masters who had been made to surrender slavery only by the fortunes of war. The Republican party, therefore, became responsible for a number of measures designed to afford national protection to the freedmen. It passed the Freedmen's Bureau Bill (*see*) asserting a national guardianship of the freedmen through military agencies. It passed the Civil Rights Bill (*see*) recognising the negro as a citizen, securing him in his rights of person and property and forbidding any state to discriminate against him in its laws. It was the intention of the Republican party, in adherence to the broad democratic principle of "equal rights for all and special privileges for none," to make the protection of civil liberty and human rights a national function, requiring the states to treat all their inhabitants with equal justice in respect to life, liberty and the pursuit of happiness. Herein lay the vitality of the Republican cause in reconstruction—in this noble ideal of American

democracy. In order to secure this democratic principle against subsequent violation or evasion by the states, the Republican party wrote it into the fundamental law of the land in the first clause of the Fourteenth Amendment (*see*).

The Republican leaders next sought a readjustment of political power. Anti-slavery men had never liked southern representation for three-fifths of the slaves (Const. Art. I, Sec. ii, ¶ 3). Now that slavery was abolished, all the former slaves would be counted for representation, while only the whites would vote; and thus the political power of the southern whites would be proportionately increased. As Conkling expressed it, "the death of slavery would add two-fifths to the entire power which slavery had when slavery was living." The result would be that one ex-Confederate in South Carolina could exercise more political power in Washington than two returned soldiers of the Union in Ohio or Massachusetts. While 127,000 whites in New York would have one vote in Congress, the same number of whites in Mississippi would have three. The glaring inequity called for readjustment. The Republican leaders, therefore, proposed, not to force negro suffrage on the South—suffrage should still be left with the states—but that if the negroes were to be excluded from the suffrage the South should suffer a corresponding reduction in representation and power. The radical Republicans believed that if Johnson's reconstructed states were recognised and their representatives admitted to seats in Congress and the electoral College, they could, in combination with the "copperheads" of the North, as they called the Democrats, control a majority in Congress and elect the President, and, as a consequence, the legislation of the "Loyal Union Party," and the results of the war would be lost and undone—the "rebel" debt would be assumed, the federal debt repudiated, the freedmen oppressed, and southern state constitutions would be so reamended as to enable those communities virtually to restore slavery. They would scorn and disregard their constitutions that had been imposed upon them by the President in the exercise of his military power. There must be permanent constitutional provision against such a possibility. If the Republicans could induce negro suffrage by the premium of added power, they hoped to build up a Republican party in the South and share, if not control, southern representation in Congress. If, on the other hand, negro suffrage were denied by the states, then they would inflict such a material reduction of power on that section—a reduction of representation from 83 to 46 in Congress and the electoral college, that, as Stevens expressed it, "let them have all the 'Copperhead' assistance they can get, they will remain a shriveled and dried up nonentity," in a hopeless minority.

The Republicans, then, appealed to the country on the guarantees of the Fourteenth Amendment—citizenship and civil rights for all, fair political apportionment, repudiation of the Confederate debt, guarantee of the federal debt, and the exclusion from office in state and nation, subject to the grace of Congress, of all who, having taken an oath to support the Constitution, had afterwards gone into the rebellion. In the notable election of 1866, the people sustained the Congressional policy by returning a Congress of more than two-thirds majority against the President. In this campaign, the Republicans organized for the first time the congressional campaign committee, (*see* COMMITTEES, PARTY) as an agent to present the party cause to the people, since the machinery of the party and its patronage were in the hands of the President and his supporters. The conflict was between the "Congressional party" and the "Presidential Party," the Democrats rallying to the support of the President. The Johnson following of state rights conservative Democrats who had been attached to the Republicans by the "Union Party" name and purpose of 1864 were now merged into the regular Democratic party, while the Republican party was still represented and controlled by its original constituents. The overwhelming verdict against the President, coupled with the rejection of the Fourteenth Amendment by the southern states, strengthened the cause of the more radical Republicans, who, now in full control of the party policy, proceeded to more stringent conditions of reconstruction. They set aside Johnson's reconstructed states, and placed the South under military rule from which it was to escape only on condition that the states should choose constitutional conventions under manhood (negro) suffrage, (excluding the former and natural white leaders who had been prominent in the war), and adopt state constitutions providing for equal suffrage, regardless of race. On these conditions all the states were restored by 1870, and with the adoption of the Fifteenth Amendment which the Republicans proposed in order to make manhood suffrage secure against any undoing by the states, the Republican congressional plan of reconstruction may be said to be completed.

The Republicans made their work in reconstruction the chief issue and General Grant their candidate in 1868. They were successful in the election, but under the first Grant administration they confronted the difficulties and failures of reconstruction in the South. It was found to be impracticable, not to say impossible, to maintain the negro governments in the South that had been set up under congressional rule. The congressional policy, especially the imposition of military rule and negro suffrage, had aroused a deep seated and undying antagonism among the southern

whites among the men of leadership, intelligence, and property. As a consequence, the Republican party came to confront the opposition of a "Solid South" for a generation to come. The Republican party that it was hoped might be built up in the South came to consist, chiefly, of three elements—the negroes, the "carpet-baggers" (*see*) and the "scalawags" (*see*). The state governments based on these elements were in many instances inefficient, wasteful, oppressive, and corrupt. Corrupt practices and lawless and violent agencies, such as that of the "Ku Klux Klan" (*see*), were resorted to by the ex-Confederate whites for their overthrow, and in spite of "Force Bills" and President Grant's earnest effort to uphold these governments, they could not be successfully maintained.

The Party under Grant.—The protest of the Liberal Republicans (*see*) against certain abuses under Grant brought schism to the Republicans, in 1872 with the loss of distinguished leaders who were prominent in the founding of the party. Though this protest represented a movement of leaders rather than of the rank and file of the party it resulted in loss of voting strength, if not in moral decline within the party. The party suffered also (being the party in power) from the hard times following the panic of 1873; and in 1874, for the first time in twenty years, it lost the Congressional elections, while in 1876, it was saved from the effects of defeat in the presidential election only by the finding of the Electoral Commission (*see*).

The Second Period of the Party, 1876-1896.—With the election of 1876 and the withdrawal of the federal troops from the South by President Hayes, there began a new period in the history of the Republican party. The "southern question," which may be held to include all controversies relating to the negro, the war, and reconstruction, now no longer held the chief interest in public attention. The withdrawal of military support from the southern Republicans and the consequent restoration of the "white man's government" there (accomplished sometimes by fraud and sometimes by violence) was much disliked by a great body of Republicans in the North who held that the party faith was pledged to the maintenance of the political rights of the colored people. These "Stalwarts" (*see*) accused the Hayes administration and its adherents with being recreant or only half-hearted in the party cause, of acting as "Half-breeds" (*see*) in the party camp. The division of the party into two wings known by these names indicated probable defeat for the party in 1880. The Stalwarts led by Conkling and Cameron and a coterie of Republican Senators, who by patronage had built up powerful party organizations within their states, attempted to nominate General Grant for a third term, but because of an independent protest and the per-

sonal following of James G. Blaine, a rival candidate and a rival of Conkling for leadership within the party, the effort was defeated. The Hayes administration was clean, honorable, efficient, and conciliatory, based on a dictum of the President that "he serves his party best who serves his country best," and with the administration's effective support of civil service reform and the return of industrial prosperity, the Republicans were able to elect Garfield and Arthur in 1880. In this campaign, the tariff was emphasized by the Republicans, and, for the first time since the Whig days, protection assumed the place of chief importance in party contests. Under the growing leadership of Blaine, whose influence had nominated Garfield and who himself became the presidential nominee in 1884 the Republicans committed themselves more definitely and aggressively to the policy of a protective tariff. By 1884, the party had been weakened by the Blaine-Conkling quarrel over patronage and party control in New York, by the assassination of Garfield, by Blaine's antagonism to Arthur, and, after Blaine's nomination for the presidency, by defection of the "Mugwumps" (*see*) who were alienated by a disbelief in the integrity of Blaine's public career and his personal fitness for the presidency. Also, the growth of the Prohibition party (*see*) drew off votes from the Republicans in close northern states, while there was an increasing feeling in the country that the program of the party was not very definite nor the issues for which it stood very vital. For these reasons the Republicans lost the presidential contest in 1884, the first defeat since 1856. New questions had arisen—silver coinage, civil service reform, railway transportation, trusts and monopolies, conflicts between labor and capital—upon which there was no distinct line of cleavage between the parties, and on which the Republicans assumed no distinctive position. In appealing to the voters for support, the party leaders relied more than ever upon the perfection of the party organization: upon the activity of party agents who were anticipating party appointments and perquisites; upon appeals to party traditions, prejudices, and habits; and still on the old soldier fear of restoring the old Democracy of the South.

Large moneyed and corporate interests and professional politicians and office-holders were, in this period, very largely in control of the nominating machinery, if not of the public policy, of the Republican party, and the party experienced alternate victory and defeat in 1884, 1888, and 1892. It was a period marked by an alarming growth of campaign funds and of corruption within the party in the use of money to control elections, by the application of Dorsey's "soap" (*see*) to smooth the way to success in the party contests in the close states, by the herding of the voters into

Dudley's "blocks of five" (*see*), and by "frying the fat" from the protected industries to secure an administration that would safeguard their interests. Under Harrison, the Republicans tended more aggressively toward high protection (*see* **TARIFF POLICY**), but after the McKinley bill (*see*) of 1890 there was reaction in the country and because of this and industrial troubles, and more especially on account of the drastic suppression of the Homestead strike and the consequent offense given to the labor vote, the Republicans suffered an overwhelming defeat by the second election of Cleveland in 1892. The party lost to the Democrats old-time Republican states like Illinois, Wisconsin, North Dakota, and barely saved Ohio; while their former loyal agricultural adherents in Kansas and Nebraska turned those states over to the Populists (*see*). But in two years' time, in the congressional elections of 1894, owing chiefly to internal divisions among their opponents and the fearful panic of 1893, occurring while the Democrats were in power, a Republican "landslide" buried these adverse majorities in every northern state and left only the "Solid South" to the Democrats. These fluctuating and one-sided results which are to be understood only in connection with the growth of the Farmers' Alliance (*see*), the Populist party, the silver agitation, and changing industrial conditions, indicated a coming readjustment of parties.

The Third Period of the Party, 1896-1913.—The readjustment came in 1896. Financial and industrial questions which had been cutting across party lines for two decades, together with the agitation of minor parties and industrial organizations that had been urging radical financial and economic changes, were now able to bring into the open the real divisions that have been for years existing within both parties. Incidentally and nominally, the question of silver coinage at "the rate of 16 to 1" (*see* **SIXTEEN TO ONE**) came to the front and largely absorbed public attention (*see* **SILVER COINAGE CONTROVERSY**); but there were deeper and more fundamental causes of division that disrupted the old parties in 1896 and brought about a new alignment. There were questions of money, land, transportation, the income tax, the control of trusts and monopolies, and the attitude of the American democracy toward judicial interference in political policies, and toward the concentration of wealth and its corrupt control of legislatures and elections. On all these matters there had been discussion, agitation, and division within the Republican party, and defections from it had been going on for several years prior to 1896. However, the division within the ranks of its opponent was even more pronounced. The Republican leaders were preparing to combat the traditional Democratic party chiefly upon the issue of the tariff, as they were hardly expecting that their oppon-

ents would openly attack the gold standard and repudiate the administration of their own making. But when this was done in the Democratic convention of 1896 that nominated Mr. Bryan, the eastern and gold standard Democratic supporters of Mr. Cleveland, as did President Cleveland himself, came to the support of the Republicans and, most of them, voted for Mr. McKinley. The accession of the "Gold Democrats" (*see*) more than offset the defection of the "Silver Republicans" (*see*) who followed Senator Teller and other Republicans of the agricultural and silver-mining states in a revolt from the Republican convention of 1896, when it declared for the single standard of gold unless there could be an international agreement for bimetallism. The combination of the Democrats, the "Silver Party" and the Populists on a free silver, and an otherwise radical, platform forced the Republicans in that year and their candidate, Mr. McKinley (who had in his congressional career been complaisant, if not favorable, to free silver coinage), to turn from the tariff and confront the money issue, and to come to a more positive defense of "sound money," as the gold standard advocates named their cause.

Thus, in the agitations, changes, and uncertainties of 1896, the Republican became the conservative party of the country and under the vigorous leadership of the chairman of the national Republican committee, Mr. Hanna (*see*), of Ohio, who organized and managed Mr. McKinley's campaign for the presidency, the Republican appeal was made not only to those who were interested in the protective tariff and so-called "sound money," but to conservative business men generally; to the banking interests; to the managers of great railways; to manufacturers, and to their wage-earners, whose fears were wrought upon by the threat of suspended industries or whose hopes were aroused by the promise of returning prosperity; and to all who were opposed to any radical advance toward a larger social control of natural monopolies, or to any disturbance of the financial policy and industrial status existing under Mr. Cleveland's policy and administration. The tendency therefore was, in the years immediately following, for the conservative Cleveland Democrat to support, if not to join, the Republican party, while the more radical element in the Republican party tended toward the Bryan Democracy, and there were many changes of this kind from 1896 to 1904.

The Epoch of Roosevelt, 1901-1905.—By the death of McKinley—the third Republican President assassinated—and by the accession of Roosevelt (1901), a change was destined to come in the presidential leadership and policies of the Republican party. It was to be a swing of the pendulum toward radicalism, marking an epoch in party history. Roosevelt as President had not been in the calculations of

the managing and official leaders of the party, nor of the powers behind the party organization. Mr. Roosevelt in assuming the presidency recognized that his administration should be a continuation of Mr. McKinley's, and he pledged himself to pursue the policies of the more conservative leader whom the country had twice chosen against the radical Bryan Democracy. This he fairly did, as a review of the two terms of McKinley and Roosevelt reveals no essential differences in the policies and purposes of these two leaders of such essentially different personalities. Either one in the seat of power would have stood for the achievements of the other—the achievements which are to be placed to the credit of the Republican party in this period—the annexation of Hawaii; the final establishment of the gold standard; the expulsion of Spain from Cuba; and the acquisition of the Philippines and Porto Rico in the Spanish War, and the subsequent government of these acquisitions as insular dependencies beyond the pale of the Constitution; and the open door policy in China and the extension of American trade in the East.

But despite mutual agreements between conservatives and radicals within the party on these policies, it was recognized that the party now had as its official head a President of a new type. McKinley had been complaisant, accommodating, pliable, seeking party "harmony," working with the politicians, disposed to accept the view that, in clashes of opinions and purposes between the executive and the party leaders in Congress, the President should follow rather than lead. Roosevelt, on the other hand, though a strong and loyal party man, demanded presidential leadership. He was determined, energetic, masterful. He was impatient, if not dictatorial, toward certain party leaders in Congress, and though himself a masterful politician, having a remarkable acquaintance with all classes and conditions of his countrymen, he was not pleasing to the old leaders and politicians of his party, who regarded him as "unsafe" and looked upon him with suspicion, if not with fear. The consequence was, that before the close of the McKinley term to which Roosevelt had succeeded, a breach was pending between the Republican President and the "old guard" of senatorial and congressional Republican leaders and party chiefs who had behind them the machine forces of the party. These forces were preparing to contest the President's renomination, encouraged by the historic tradition that no man who had ever inherited the presidency, could ever win it. But the illness and death of Marcus A. Hanna, the great McKinley captain and the most powerful personal force within the party making for political and industrial conservatism, around whom the opposition might have rallied with some chance of success, caused a collapse of the politicians' plans

for defeating Roosevelt within the party. Moreover, before the close of his inherited term, Roosevelt's name had become associated with certain notable and popular achievements and ideas that gave him such a remarkable personal popularity that, in spite of the dislike of the old party leaders and politicians, he was nominated by his party convention to be his own successor; and he was reelected by such popular and electoral majorities as no President before him had ever received (1904). This result was interpreted not so much as a Republican as a Rooseveltian victory, and as a non-partisan approval of what Roosevelt had done and what he stood for, since many Bryan Democrats had voted for him as against a conservative candidate of their own party.

Roosevelt Policies, 1905-1909.—When Roosevelt came to the presidency "by his own right," the struggle to dominate the party was continued. There was all but open war between the President and distinguished party leaders in the Senate. The difference between the President and the "Old Guard," lay partly in personal traits, but more largely in radically different and divergent views and tendencies in politics. By conviction, composition, antecedents, and political affiliation, the Republican party as represented in Congress—led in the Senate by Mr. Aldrich, the captain and spokesman for large corporate interests, and in the House by Speaker Cannon and his "steering committee" on rules (*see*)—was deeply conservative. Its leaders were denounced as "Reactionaries" and "Standpatters" (*see*); they would stand fast by the old ways, for vested interests, for the high tariff, that, as they contended, had brought material prosperity. Roosevelt stood for the "Progressive Republicans" (*see*). He perceived the menace of plutocracy with its social injustice and moral decay, and he wished to commit his party to moderate radicalism in order to forestall the greater radicalism of Bryan and Hearst (*see* INDEPENDENCE LEAGUE) and to save the country from the alternative of a choice between corporate capitalism, as represented by Aldrich, and socialism as represented by Debs (*see*); while in Congress, there were a few still more radical Republicans represented chiefly by Senator La Follette, of Wisconsin, who became "Insurgents" (*see*) against what they deemed the autocratic one-man power of the Speaker in the House and the "big business" capitalistic oligarchy in the Senate, who, as the Insurgents claimed, were ruling the country and dictating its laws by an alliance of the capitalist and the politician, the millionaire and the boss.

The President and the "Progressives" urged a railroad-rate regulation bill, a pure food bill, arbitration treaties, a bureau of corporations, and other measures. But if any of these passed the House, they were likely to be held up, or

amended out of form, or strangled, in the Senate. But the President by special messages and appeals to public opinion, by wielding the "big stick" (*see*), frequently forced reluctant acquiescence in Congress to "progressive" measures. It was made apparent to the congressional leaders that the President had public sentiment and the great mass of the party behind him; and by 1908 opposition to his policies within the party was seen to be futile; it was also recognized that, if Mr. Roosevelt himself would not stand for reelection, none but a "Roosevelt Republican" who would pledge himself to carry out the "Roosevelt policies" could hope to be nominated and elected.

The "Roosevelt policies" to which the Republican party now found itself inevitably united, are to be seen partly in those achievements and ideas, which had brought the President his remarkable popularity and vindication at the polls in 1904. He had vigorously denounced corporate abuses and shown sincere friendliness to labor unions; he had preached civic righteousness with great effect, while the country was aroused by exposures of "graft" and corporate corruption in legislatures and elections; he had a "wild western" popularity and a "rough rider" war record in Cuba; he had pursued an energetic and effective policy towards Colombia and Panama and had begun the great canal; he had construed the Constitution broadly, assuming for the presidential office all powers not forbidden, instead of limiting his activities only to those powers that were specifically granted; he had urged efficiency and reforms in the Army and Navy, cutting through the red tape of rank and bureaucracy; he achieved a world-wide distinction by bringing about peace between Russia and Japan; he had advocated the "square deal," and above all, in exemplification of it, he had boldly taken to task the railways and the "coal barons" and had brought about the settlement of the anthracite coal strike by presidential interference. Most of these things were to his credit with the people while he was still serving out McKinley's term."

Roosevelt's second administration added to the list of the "Roosevelt policies": (1) equal industrial opportunities, and equal punishment for all illegal acts: government must "shackle cunning," and especially bring to book the more culpable rich malefactors; (2) government regulation of public service corporations, especially the railways, which should be made to serve all equally; (3) the development of waterways, to supplement, and to help to control, the railways; (4) the promotion of agriculture by promoting small holdings of land, and giving title to homesteaders; (5) a strong Navy for the security of peace and the protection of our coast line, to be unified by the Canal; (6) the conservation movement—saving for the public under national authority the natural resources of the country, namely, water

power for irrigation, the forests, the mines, and ungranted homesteads for homeseekers.

Taft's Administration, 1909-1913.—Secretary of War, William Howard Taft, was nominated and elected in 1908, largely through the influence of Roosevelt, and as one who would carry on these policies. One of his first official acts was to call Congress into extra session to revise the tariff, as revision had been promised in the party platform. Tariff revision had not been a distinctive Roosevelt policy, and the party was divided upon it. The Republican "Insurgents," especially in the Middle West, led by Senator La Follette, and Senator Cummins, of Iowa, had been demanding revision for a number of years, favoring such modification of the schedules as might be required to prevent their affording shelter to monopolies, or in all cases where protection was employed to give special interests of capital undue advantages and to the injury of workingmen and consumers. The revision effected by the Payne-Aldrich (*see*) tariff bill of 1909, was dominated by the "standpatters" in Congress, under the leadership, chiefly of Cannon in the House and Aldrich in the Senate. President Taft accepted it, and approved it to the country in a public speech as "one of the best tariff measures ever enacted," while it was denounced by the Insurgents as a fraudulent revision—a revision upward rather than downward, a revision in the interest of the "interests" (*see*). Following its enactment the Republican party suffered a decisive defeat at the polls in the congressional election of 1910, losing control of the House, while insurgency in the West gained victories and recruits, especially in Wisconsin, Iowa, Michigan, Kansas, California, and Washington. President Taft, at the last session of the Republican Congress, urged further tariff revision under the form of a reciprocity compact with Canada. His party refused to accept it, whereupon he immediately called an extra session (in April, 1911) of the newly elected Democratic Congress to consider Canadian reciprocity. The Democratic leaders and a Democratic House gave cordial support to a measure urged by a Republican President, but when Mr. Taft's reciprocity treaty came to the Senate, more Republican votes were cast against it than for it (24 to 21), the Insurgents antagonizing it on the claim that it was designed to promote special interests and was calculated to injure the interest of their agricultural constituents. It was passed only by Democratic support.

The Liberal Party in Canada advocating reciprocity was defeated in the election of 1911; and thus the issue was at least temporarily put to one side.

The passage of the bill for Canadian reciprocity was interpreted as the first serious break in the Republican high protective policy, the beginning of a readjustment of

the whole protective system. It revealed a division that has existed within the Republican party for ten years, between the "regulars" of the "Old Guard" and the progressives.

President Taft in the first three years of his administration made an honest effort to find a middle ground between the contending factions that were rending his party. He was anxious to keep the peace and preserve intact the harmony and integrity of the Republican organization. He failed to appreciate the deep seated character of the issues and causes that arrayed the opposing forces against one another; or where he did appreciate the issues involved, or when he found himself in the midst of contending forces and had either to approve or resist the radical advance, his natural disposition and the legalism in his habits of thought led him to ally himself with the conservative elements.

Contest of 1912.—In 1912 began a violent contest for the control of the approaching national convention of the party. Within several of the states the progressive Republicans organized leagues and set actively to work with the purpose of securing a majority of the delegates in opposition to President Taft's renomination. They arraigned the President for his failure to carry out the party pledges and for acquiescence in "boss control." The progressive Republicans insisted upon a more popular control of the party. They induced ex-President Roosevelt to stand for renomination before the Republican voters, and there ensued a bitter contest between the two former political friends for the leadership and nomination of the party. Taft was backed by the regular and machine forces, the Cannon-Aldrich group representing the Old Guard, and many eminently respectable conservative men of affairs and of property who distrusted and disliked Roosevelt and who felt that the new issues that were being pushed to the front by the radicals were fads and follies or dangerous and un-Republican innovations. Roosevelt on the other hand, proclaimed himself in favor of a pure democracy and for the full progressive program—downward tariff revision, popular control of the party, the initiative and referendum, short ballot, popular election of United States Senators, direct primaries, preferential voting for presidential nominees and the popular election of delegates to the national conventions. To these he added the recall of judicial decisions, by which he meant that when a court decides "what the people can or cannot do" under the Constitution, "the people should have a right to recall that decision if they think it wrong." This platform of principles announced in his address, "A Charter of Democracy," before the Ohio constitutional convention, February 21, 1912, put Roosevelt squarely in the radical progressive group.

The outcome of the pre-convention contest was a divided party. The Taft forces controlled

the national committee and after its decision on the contested seats they controlled the convention and nominated Mr. Taft. Mr. Roosevelt and his supporters charged that it was a stolen nomination, secured by fraud, and that the will of the Republican rank and file as expressed in the party primaries in the Republican states had been defied and set at naught. The Roosevelt delegates, those who had been denied seats in the convention by the national committee together with those who had carried on the struggle on the floor of the convention to the end, met in mass meeting with other supporters of Roosevelt and organized a new Progressive party and issued a call for another national convention (see PROGRESSIVE PARTY).

The outcome of the voting in November was the overwhelming election of the Democratic candidate, Woodrow Wilson of New Jersey, who carried 435 electoral votes out of 531, Mr. Roosevelt, the candidate of the new Progressive party receiving 88 votes and Mr. Taft but 8 (Utah and Vermont). In the popular vote the opposition to the Democrats were in the majority by over 2,000,000 votes but these voters (apart from the Socialists) were about equally divided between the Progressives and the Republicans. So the year closed with the Republican party cut in twain. Some of the Progressive vote came from the Democrats while many of the former Republicans voted for Mr. Wilson, from fear of the election of Mr. Roosevelt. In fact the majority of the Republicans as well as of the Progressives, preferred Mr. Wilson, the Democrat, as their second choice, so bitter had become the antagonism of the two factions of the old party toward one another.

The Future.—The Republican party in 1914 was in a waiting attitude, leaders and rank and file looking forward to its reorganization and rehabilitation. In two by-elections for the choice of congressmen in 1913 the party met with some gains and successes while the Progressive vote fell off. The Progressive Republicans that remained with the party (Senators La Follette, Cummins, Borah, and others) held a conference in May, 1913, and urged the national committee to call a national convention for the purpose of bringing about the reorganization of the party and the readjustment of representation. On September 24, 1913, the New York Republicans in state convention, under the leadership of Senator Elihu Root and Henry F. Stimson, Secretary of War under President Taft, renewed the suggestion, instructing the New York member of the national committee to urge that a national convention be called as soon as practicable for the purpose of so changing the party rules as to provide that the delegates from the states be chosen as the Republican voters of each state might determine. In response to these demands the national committee in Decem-

ber, 1913, resolved, subject to the approval of the state conventions, to reform the basis of representation in the South and to grant full recognition to the principle of the primary in the selection of delegates, without the holding of a special convention. If ratified before January 1, 1915, by the Republican state conventions in such a number of states as are entitled to cast a majority of the votes in the Electoral College, the following plan of reapportionment will be made the basis of the call for the national convention of 1916:

Each state shall be entitled in such convention to four delegates at large; one delegate at large for each Representative at large in Congress from any state; one delegate from each congressional district; an additional delegate from each congressional district in which the Republican vote for Republican Presidential electors in 1908, or for the Republican candidate for Congress in 1914, shall have been not less than 7,500 in such district; and for each delegate chosen an alternate delegate shall be chosen in the same manner and at the same time to act in the event of the absence of the delegate.

This reform, by which the South loses 82 votes, it is hoped will remove the complaints and charges of the Progressives as to the unrepresentative character of the old party conventions and induce their voters to return to the old party fold.

See FOURTEENTH AMENDMENT; INSURGENTS; PROGRESSIVES; RECONSTRUCTION; SILVER COINAGE CONTROVERSY; TARIFF POLICY OF THE UNITED STATES.

References: F. M. Curtis, *The Republican Party, 1854-1904* (1904); J. D. Long, Ed., *The Republican Party* (1896); E. Stanwood, *Hist. of the Presidency* (1898), chs. xx-xxx; J. Macy, *Political Parties in the U. S.* (1900), chs. xiii, xiv, xv; J. A. Woodburn, *Pol. Parties and Party Problems* (1914), chs. vii, viii; T. C. Smith, *Parties and Slavery* (1906), chs. viii, xii; W. H. Smith, *A Pol. Hist. of Slavery* (1903), I, ch. viii; J. F. Rhodes, *Hist. of U. S.* (1893-1906); H. T. Peck, *Twenty Years of the Republic, 1885-1905* (1906); J. Hay, *Address, Fifty Years of the Republican Party* (1907); G. W. Julian, *Political Recollections* (1884), "First Republican National Convention" in *Am. Hist. Rev.*, IV (1899), 313, 322; W. A. Dunning, "Second Birth of the Republican Party" in *ibid.*, XVI (1910), 56-63, *Reconstruction* (1907); C. M. Harvey, "Origin of the Republican Party" in *Chataqua*, 1897; J. G. Blaine, *Twenty Years of Congress* (1884-1886); P. L. Haworth, *Hayes-Tilden Disputed Election of 1876* (1906); R. M. La Follette, *Autobiography* (1913); T. Roosevelt, *An Autobiography* (1913); F. E. Leupp, *The Man Roosevelt* (1904); J. Sherman, *Recollections of Fifty Years* (1895); Geo. F. Hoar, *Autobiography of Seventy Years* (1903); J. P. Doliver, "Forward Movement in the Republican Party" in *Outlook*, XCVI (1910), 161; T. H. McKee, *National Conventions and Platforms* (1901); *Am. Year Book, 1910*, and year by year.

JAMES A. WOODBURN.

REPUBLICAN PARTY (JEFFERSONIAN).

The party of which Jefferson became the acknowledged leader owed its origin to a widespread distrust engendered by the strong centralizing measures of the first Federalist administration. Believing that Hamilton and the group of intimates surrounding Washington were monarchists at heart, the opponents of the administration assumed the name Republican. See DEMOCRATIC-REPUBLICAN PARTY.

A. J.

RESERVATION OF PUBLIC LANDS. See PUBLIC LANDS, RESERVATION OF.

RESERVE ACT, FEDERAL. History.—This statute, commonly called the Glass Banking and Currency Act, was preceded by more than a year of preliminary work of investigation and preparation by a subcommittee of the House committee on banking and currency. The bill was introduced in the first (special) session of the Sixty-third Congress by Representative Carter Glass, of Virginia, in June, 1913; it was reported from the committee September 9, and passed its final reading in the House September 17, by a vote of 286 to 85. The Senate committee on banking and currency subjected the measure to a severe examination. Public hearings were held at Washington and some amendments were accepted by the Committee. The bill was reported December 1 under strong administrative pressure, and did not differ seriously from the original House bill. After conference it finally passed, December 23, 1913, and the President duly attached his signature.

Reserve Banks.—The act, as the name implies, has for one of its main purposes the marshalling of the bank reserves of the country. To this end federal reserve banks were created, one to be in each of the districts into which the United States was to be divided. In 1914 twelve districts, the maximum number permitted, were marked out, containing severally the federal reserve cities of Boston, New York, Philadelphia, Cleveland, Richmond, Atlanta, Chicago, St. Louis, Minneapolis, Kansas City, Dallas, and San Francisco. Every national bank must become a member of the reserve bank in its district and subscribe to its capital stock. State banks may also enter the system by complying with certain requirements; and it is hoped that, because of the benefits that will inure to member banks, many state banks will join. What these benefits are, appears from a discussion of the functions of the new reserve banks.

Reserves.—In the first place, they are to hold part of the reserves of member banks. The Secretary of the Treasury may also use the reserve banks as government depositories. Through these two channels will come most of the resources of the banks; and by means of these deposits, against which a 35 per cent reserve must be held, the reserve banking power

of the country is to be safeguarded and concentrated, instead of being scattered as at present. Bankers' deposits will not draw interest but as an offset will carry with them the privileges, among others, of the machinery for clearances and exchanges that the system provides.

These reserves will be made available to the banks, and therefore to the public, in several ways. The first is through the function of rediscount. Any member bank may indorse and rediscount with its reserve bank "notes, drafts, and bills of exchange issued or drawn for agricultural, industrial or commercial purposes," of good quality and with "a maturity at the time of discount of not more than ninety days," and also a limited amount of longer paper "drawn or issued for agricultural purposes, or based on live stock." No paper shall be eligible that is drawn for carrying on speculation in securities. Here are attempts: first, to create a real discount market which shall make commercial paper a thoroughly liquid asset; second, to standardize prime paper; third, to allow for agricultural credits; and fourth, to minimize the importance of the collateral loan.

A second means of making reserves available is through note issues. The federal reserve notes will be backed in full by rediscounted commercial paper and will have behind them a reserve of at least 40 per cent in gold; they are, further, a prior lien on the assets of the issuing banks, besides being government obligations. Issued in denominations as low as five dollars, they will form a new type of hand-to-hand currency, which will get into circulation through payments by the reserve banks to member banks. Elasticity will be secured in this new element of our circulating medium, first, on account of the seasonal variations in the supply of commercial paper in the possession of the reserve banks; second, through processes of effective note redemption; third, through the possibility of reducing the gold reserve subject to the payment of a tax.

Other Functions.—These include taking over some of the bond secured note issue of the national banks by the purchase of United States bonds from member banks; purchase of bills of exchange from members; discount of acceptance of member banks; purchase and sale of short term government securities; opening of foreign accounts and agencies; and dealing in gold coin and bullion, at home and abroad; most of these functions being connected with the purpose of making the new banks factors in the foreign as well as in the domestic financial situation.

National banks are given a new series of privileges, some of which may be shared by member state banks. Among these are the power of acceptance, the power to establish savings departments, the power to lend on real estate, and the ability to exercise trust functions. In other ways the national banking system is liberalized.

Management.—The management of each reserve bank will be in the hands of a board of nine directors. Three (in Class C) will be chosen by the Federal Reserve Board; the others (in Classes A and B) by the member banks, under conditions which seek to prevent control by big banking interests and to secure representation of commercial and industrial interests. Two of the Class C directors will be respectively chairman and deputy chairman of the board and *ipso facto* federal reserve agent and deputy agent for the district. They must be men of tested banking experience but not connected with any bank.

The keystone of the whole arch is the Federal Reserve Board. On its ability and judgment, supplemented by that of a Federal Advisory Council (the latter with power to call for general information and make recommendations), depends largely the success of the system. It is composed of seven men, all appointees of the President, including *ex officio* the Secretary of the Treasury and the comptroller of the currency. The following are its most important functions: (1) to permit or require one reserve bank to rediscount for another; (2) to review and determine the rates of rediscount of reserve banks; (3) to suspend temporarily any reserve requirement, providing penalties for violations; (4) to regulate the issue of federal reserve notes to the federal reserve agents applying therefor; (5) to define the commercial paper eligible for rediscount; (6) to require the reserve banks to buy each year for 20 years, from the national banks wishing to sell them, not more than \$25,000,000 of United States bonds held against circulation; (7) to permit reserve banks to establish foreign agencies; (8) to redistrict the country if they see fit; (9) to reclassify or add to existing reserve and central reserve cities; (10) to appoint Class C directors and remove any officer or director of a reserve bank, for cause; and to exercise general supervision over all federal reserve banks, and in certain regards over all member banks.

See under **BANK, BANKING; BONDS; COIN-AGE AND SPECIE CURRENCY IN THE UNITED STATES; CURRENCY; ELASTICITY OF THE CURRENCY.**

References: G. Harvey, "Currency Bill" in *No. Am. Rev.* (Nov., 1913); R. L. Owen, "Origin, Plan and Purpose of the Currency Bill" in *ibid* (Oct., 1913); "Progress in Banking Legislation" in *Jour. of Pol. Econ.* (Oct., 1913); H. P. Willis, "The Federal Reserve Act" in *Am. Econ. Rev.* (March, 1914); J. L. Laughlin, "Banking and Currency Act of 1913" in *Jour. of Pol. Econ.* (April, May, 1914); J. Conway, Jr., "Financial Policy of the Federal Reserve Banks" in *ibid* (April, 1914); W. B. Scott, "Banking Reserves under the Federal Reserve Act" in *ibid*; G. Woodruff, "Collecting Checks under the Currency Law" in *ibid*; R. C. Schaffner, "Relation of the New Currency

Act to the Work of Commercial Paper Houses" in *ibid*; O. M. W. Sprague, "Commercial Paper and the Federal Reserve Banks" in *ibid* (May, 1914); J. H. Hollander, "The Probable Effects of the New Currency Act in Bank Investments" in *ibid*; F. M. Taylor, "The Elasticity of Note Issue under the New Currency Law" in *ibid*; *Am. Year Book*, 1913, 38-53, 365-367.

A. N. HOLCOMBE.

RESERVE MILITIA. The organized national guard of the states may be considered as a reserve for the regular Army; and measures taken under the militia act of 1903 promise to make this relation effective for 70,000 militiamen, who may serve at home or abroad during war. The whole population of military age, amounting to 15,000,000, is sometimes referred to as the reserve or enrolled militia of the states; but such figures lack military significance, since they include the half who would be exempted for disability, a large body of men of middle age, and few trained soldiers. See **ARMY AND NAVY; ARMY, STANDING; MILITIA; RESERVES, VOLUNTEER.** References: U. S. War Department, *Annual Reports*, 1899-1903 (1904), 167, 286-289, 352 (1909), I, 35, 183 (1910), I, 51 (1912), 78, 97-101.

C. G. C.

RESERVES, ARMY AND NAVY. The enrolled militia includes all citizens of military age, and a statute of 1792 made this force subject to the call of the President to suppress insurrection or repel invasion: but in practice only the organized militia of the states has been counted as a reserve force behind the national Army and Navy. Though organized as militia at the opening of hostilities this force has become a volunteer Army of the United States during war.

Reserves for the armies of Europe are trained men who can be summoned to the ranks as soon as mobilization is ordered: and measures are now before Congress which would organize men honorably discharged from the Army or Navy as reserves, paying them a retaining allowance and holding annual musters. For the naval reserve the seamen and firemen of the merchant service would be eligible as in Great Britain.

Universal military training produces an unlimited reserve from which classes of young recruits can be drawn into the active army, while seamen and others follow their specialty, and older men join territorial or reserve regiments. Shortening the term of service with the colors to two years has given Germany and France more numerous and younger reserves; but France has restored the three years' term, thus strengthening the active army at the expense of the reserve. The British army has also secured a trained reserve by enlisting men for 12 years and passing them to the reserve after five years' training; and the army of the United States is to secure a reserve by keeping

men in active service for only four of the seven years' term of enlistment authorized in 1912. Organizations where both officers and men belong to the reserves are not admitted to the first line of European armies during war, but are assigned to guard or garrison duty to relieve regular troops. Each battalion of the active army is placed on a war footing, however, by summoning its own men from the reserve. See **ARMIES AND NAVIES, FOREIGN; ARMY, STANDING; MILITARY SERVICE; MILITIA; RESERVE MILITIA; RESERVES, ARMY AND NAVY; VOLUNTEER.** References: I. Hamilton, *Compulsory Service* (1911), 27; E. Upton, *Military Policy of the U. S.* (1907), 257, 438; U. S. War Department, *Annual Reports*, 1904, 68, 137, 167, 339, 1908, I, 36, 148-155, 1910, I, 51-53, 131, 1912, I, 20, 96-101, 297; U. S. Navy Department, *Annual Reports*, 1910, 49, 123, 1912, 63, 64, 141, *Transactions of the Naval Militia Assoc.*, 1909, 1910. C. G. C.

RESIDENCE. See **DOMICILE AND RESIDENCE.**

RESIGNATION OF PUBLIC OFFICIALS.

Any public official has the right to resign. The resignation is sent to the official or body by whom the vacancy would be filled, or to the official or body having charge of the new election, if a special election is required. Senators and members of the House of Representatives send their resignations to the state governor, information of resignation coming to the House directly from the members, or from the governor, or through the election of a successor. Members of Congress may resign, the resignation to take effect at some future date, without forfeiting the right to exercise the powers of the office before that date. Similar rights are permitted state and local officers unless the appointing power removes the resigning official and fills the vacancy. See **EXPULSION; REMOVAL OF PUBLIC OFFICIALS.** References: W. Clappitt, in *Cyclopaedia of Pol. Sci.* (Lalor, Ed., 1890), III, 613-615; A. C. Hinds, *Digest and Manual of Rules and Practices of the House of Representatives* (1908), § 686.

R. L. A.

RES JUDICATA. An issue of law, or a matter formerly in controversy, decided by a court of competent jurisdiction. (Sometimes erroneously written *res adjudicata*.) To sustain the contention of *res judicata* there must be proved identity of subject matter, of the cause of action, of parties and capacity in which they sue or are sued, and a final determination in the previous action. H. M. B.

RESOLUTIONS IN CONGRESS. Three kinds of resolutions are employed in Congress—simple resolutions, concurrent resolutions and joint resolutions. The simple resolution is employed for the enactment of measures

which affect only the house which adopts it. It is in this form that each house adopts the rules which govern its procedure, calls upon officers of other departments to furnish information, disciplines its own members, and expresses its opinions upon public questions. Such a resolution has the force of a statute within the house which adopts it, but it is not presented to the other house, nor to the President, and does not appear among the statutes. Resolutions which are adopted by both houses may be concurrent or they may be joint. In compiling the enactments of each session of Congress, the joint resolutions are grouped by themselves after the public and private acts. They seem to have little excuse for existence and their use is confusing rather than helpful. Several attempts have been made to discontinue this form of legislation. See **CONCURRENT RESOLUTION; JOINT RESOLUTION.** L. B. E.

RESOURCES OF NORTH AMERICA. Non-

Metallic Minerals.—The primary resource in all lands is the soil, which, though largely of a mineral nature, is usually considered under agriculture. The mineral resources, as commonly reckoned, may be classified as non-metallic and metallic. The non-metallic minerals of North America which have economic value are of great variety. First may be named the fuels, of which coal is chief. The United States has the most extensive and widely diffused supplies of coal in the world, with the possible exception of China. Under this head come: (1) the anthracite of Pennsylvania; (2) the bituminous coals of the Appalachian region and Mississippi basin; (3) the great variety of soft coals and lignites of the South and West. In the coal group may be included considerable reserves of peat in the United States and Canada. Canada has three coal regions, one in the Maritime Provinces, a second in the plains of the Northwest, and a third in British Columbia. The coal of Alaska is little developed and only partially known.

In petroleum also, the United States has the chief store in North America, and the deposits are much more widely diffused than those of her only rival, Russia. The center of production has moved steadily southwestward, and at the present time California is the heaviest producer. In like manner, natural gas is an important fuel, especially in the states of Pennsylvania, West Virginia, Ohio, and Indiana.

Structural materials are of every kind and of wide distribution, belonging to the class of inexhaustible useful minerals. Because the United States has the largest population of an advanced type of any American country, these substances have here been most exploited. Among them are building stones—granite, sandstone, marbles, and other limestones, and slates. The chief beds of natural cement are

in eastern New York, but this cement is now of minor importance, since the rise of the Portland cement industry, which, with the growth of population, and the limitations of the timber supply, supplies a great variety of needs. Glass sands are abundant, the principal present centers of manufacture being at Pittsburgh, Pa., and Muncie, Ind.

In the group of fertilizers, phosphates are found in South Carolina, Florida and Tennessee, and even more extensive deposits are now undergoing development in Wyoming, Idaho, and Utah; these last are believed to be the largest in the world. Marls are found on the Atlantic coastal plain, and gypsum beds are very extensive in parts of the South and West.

Abrasives are widely distributed in the United States, especially in the Appalachian region. The grindstones used in the United States are largely derived from sandstones found in Ohio. Arkansas has one of the chief deposits of rock suitable for whetstones. The largest stores of corundum are in North Carolina and Georgia.

Salt is widely distributed in the United States. New York and Michigan are the largest producers. Other important states are Kansas, California, Texas, Ohio, Utah, and Louisiana.

Canada leads all North American countries in the production of asbestos, has salt and petroleum in the province of Ontario, and mines also mica, graphite, apatite, and other non-metallic substances.

Metallic Minerals.—Of the metallic minerals, Canada has her largest supplies in gold, in the Yukon Territory and in British Columbia. Copper and iron ore are important, but the Dominion's wealth in these metals is far inferior to that of the United States, which leads all countries in the production of both. The Lake Superior region is the greatest producer, and the southern Appalachian region is second, though it has the greater reserves. Lesser deposits of iron are widely distributed. Michigan, Montana, and Arizona are the leading states in copper and southern Missouri is known for its lead and zinc. Lead is produced as a by-product of silver mining in the West.

Gold and silver are produced in every Cordilleran state. Gold is mined to the value of millions of dollars annually in Alaska, and Mexico is one of the foremost silver-producing countries, having in addition great wealth in copper, platinum, iron, lead, and mercury. The last is also produced in California. Taken altogether, North America is richly endowed in coal, copper and iron, the metals basal to industry, and in the precious metals.

Water.—Water has, during recent years, been recognized, as never before, as an important resource and its uses in due relation to each other are now receiving new attention (*see CONSERVATION*). (1) The prime essential use of water is for domestic and municipal supply. With the growth of population, espe-

cially in the United States, this function of water is receiving thorough and scientific attention. Emphasis on this phase also has grown through more exact knowledge of the transmission of disease. In order to measure the amount of water available for this and other purposes, hydrographic surveys of a detailed character have been carried on, particularly by the United States Geological Survey.

(2) A further use of water is for irrigation. Extensive operations of a private and corporate character, have been in progress for more than half a century, but the past decade has been marked by federal activity, until at the present time irrigation in the arid regions west of the Mississippi River, may be said to be in an advanced stage.

(3) Our interior waterways have been employed for navigation since the days of early exploration, and it was attempted with much success even in the early days of the republic to join the main water systems by canals (*see CANALS AND OTHER ARTIFICIAL WATERWAYS*). It is now seen more clearly than ever before, that the rivers and lakes of North America offer unsurpassed opportunity for this form of transportation. Indeed, the extent and continuity of the interior lowland make it possible, by improving rivers, and constructing ship canals, to make a complete and efficient network of waterways from the Gulf of Mexico to the Arctic Ocean and from the Rocky Mountains to the Atlantic.

(4) A fourth use of water is for power. The evident limitation of the coal supply, the increasing industrial necessity, and the richness of our natural reservoirs and falling streams, focus attention upon this resource, and upon its enormous extent, as in the Provinces of Quebec and British Columbia, and in many parts of the United States, where only a small part of available power is now used.

Agriculture.—The uses of soil are conditioned by water and temperature. No continent has a greater variety of surface, soil, or climate, for the purposes of agricultural production. The temperate belt is superior to that of any other continent, being wide, and extending far southward on the Mexican plateau, and northward over the Canadian plains. The temperate region passes gradually into the subtropical conditions of the southern states and of the middle altitudes of Mexico. These conditions are favorable to the production of cotton, sugar cane, rice, and many varieties of fruit. The subtropical belt in turn leads into regions of equatorial warmth, marked, as in Central America, southern Mexico, and the West Indies, by the production of coffee, rubber, and bananas.

Forests.—About one-fourth of Canada is covered by forests. These are found in the Maritime Provinces, in the Labrador Peninsula, in Quebec, and Ontario, and in British Columbia. Hudson Bay is bordered by forests except

in the cold regions on the north. From this forest area a belt of trees extends westward across the upper basin of the Mackenzie and joins the forests of British Columbia. The three chief lumber centers are in New Brunswick, the region of the upper Ottawa River, and British Columbia.

The United States has the waning timber supplies of the New England and middle states, the important reserves of the southern Appalachians, and the still important, but much reduced resources of the upper Great Lakes. The largest reserves at the present time are in the south central states, and in the Pacific northwest. The Latin regions of the continent all have valuable reserves of rubber forest, of mahogany and other cabinet woods, and of dye woods.

Animal Resources.—These include the fisheries (*see*), which may be regionally classified in a fourfold way as: (1) the historic fishing grounds of the Atlantic coast, centering in the Banks of Newfoundland; (2) the Great Lakes; (3) the innumerable rivers and smaller lakes of the United States and Canada; (4) the Pacific Coast fishing grounds bordering Alaska, British Columbia, and the United States, including the salmon industry of the Columbia and Fraser River systems.

The fur-bearing animals are of less importance than in the early days, but in this field also, the necessity for conservation is

leading to suitable restrictions, and promises permanence and reasonable value to the fur trade. The same is true of wild game, for almost all the states of the Union now have more or less stringent restrictions and many of them wholly prohibit the export of game.

It may be said in general of all the natural resources of the continent that the principles and practice of conservation have established themselves in time to prevent such serious havoc as has been wrought with the natural resources of some countries of the Old World.

See AMERICAN GOVERNMENT AND GEOGRAPHY: FAR WEST; MIDDLE STATES; MIDDLE WEST; NEW ENGLAND; PACIFIC SLOPE; PHYSIOGRAPHY OF NORTH AMERICA; SOUTH.

References: A. P. Brigham, *Commercial Geography* (1911); H. Ries, *Economic Geology* (1910); N. S. Shaler, *The United States* (1894), I, II; Thirteenth Census, *Reports*; *Canadian Year Book*; *Am. Year Book*, 1910, and year by year. ALBERT PERRY BRIGHAM.

RESPONSIBLE GOVERNMENT. A government in which the ministry is responsible to the legislature (ordinarily to the more popular branch of the legislature), and normally ceases to exercise power when it loses the support of a majority of the members of that body. See CABINET GOVERNMENT; MINISTERS AND MINISTERIAL RESPONSIBILITY; PARLIAMENT.

W. F. D.

RESPONSIBLE GOVERNMENT IN CANADA

Constitutional Basis.—The system of responsible or cabinet government is in operation in the Dominion of Canada, and in each of its nine provinces. The essence of the system lies in the fact that the heads of the chief executive departments hold office only so long as they are able to command the support of the majority of the popular house (in the case of all the provinces except Quebec and Nova Scotia, the sole house) of the legislature. As in the United Kingdom, this arrangement rests upon constitutional practice rather than statute law. In Canada, however, the office of the prime minister has legal recognition in that he receives a salary of \$12,000, instead of the \$7,000 granted to other ministers of the Crown. The British North America Act of 1867 provides that "there shall be a council to aid and advise in the Government of Canada to be styled the Queen's (King's) Privy Council for Canada; and the persons who are to be members of that council shall be from time to time chosen and summoned by the Governor General, and sworn in as Privy Councillors, and members thereof may be from time to time removed by the Governor General." But this privy council includes all surviving members of past and present cabinets, except such as

may have been removed from that dignity for cause—a proceeding practically never adopted. The privy council, therefore, as Sir George Bourinot has phrased it, is "the only advisory body known to the constitutional law." But it is not in entirety an organ of government.

Historical Evolution.—The system of responsible government in Canada has been evolved as an attempt to harmonize colonial freedom with the imperial connection. It was instituted at the time of the union of Upper and Lower Canada in 1841. Prior to this each province had an elected legislature, but the executive and legislative councils were appointed by the Crown. This led to friction and presently to the armed rebellion of 1837. After the suppression of the rebellion the British Government sent out Lord Durham as high commissioner to enquire into its cause. In the report which he presented (1839) Lord Durham recognised the validity of the colonial grievances and recommended the institution of responsible government by which means the colonies might control their own executive officers.

"Without a change in our system of government," he wrote, "the discontent which now prevails will spread and advance. . . . It is difficult to understand how any English

statesman could have imagined that representative and irresponsible government could be successfully combined. . . . It needs no change in the principles of government. . . . It needs but to follow out consistently the principles of the British constitution and introduce into the government of these great colonies those wise provisions by which alone the working of the representative system can . . . be rendered harmonious and efficient."

Lord Durham also recommended the union of the two Canadas, by means of which the French of the lower provinces would be outvoted and thus, while enjoying the liberty of responsible government, would be under British control. The plan of government suggested by Lord Durham was, of course, merely an adaptation of the British system. Nor can he claim the honor of having been the first to recommend it. Among the reformers of upper Canada prior to the rebellion of 1837, the demand for responsible government had been freely expressed. It appears in the petition of 1829 sent from the town of York, in protest against the dismissal of Judge Willis. It was part of the platform of the Canadian Alliance Society (1834), and the Constitutional Reform Society, (1836). It was explicitly asked for in the famous Seventh Report on Grievances presented to the assembly of Upper Canada in 1835.

Union of the Canadas.—The British Government decided to act upon Lord Durham's recommendation. Lord Sydenham came to Canada as governor in 1839, to effect the union. Resolutions were passed in its favor by the legislatures of United Canada and the special council of the lower provinces. The Act of Union, passed by the imperial Parliament in 1840, went into force by proclamation February 10, 1841. It was presumed by the reformers that it would carry with it responsible government; but some years were needed before the British governors and the imperial authorities either understood or sanctioned the full working of the cabinet system in the colonies. Sydenham himself inclined to personal government. "I am not a bit afraid," he wrote, "of the responsible government cry . . . the council are a council for the Governor to consult, but no more." In vain the legislature passed resolutions demanding responsible government. Sydenham died in office (1841). Sir Charles Bagot who succeeded him was willing to accept the new principle. He appointed (Sept., 1842) a ministry partly French and partly English, under Robert Baldwin and Louis La Fontaine, with the support of the majority in the assembly. This was responsible government. But the British Government was not prepared to sanction Bagot's action. "The Duke of Wellington," wrote Sir Robert Peel "has been thunderstruck by the news from Canada. He considers what has happened as likely to be fatal to the connection with Eng-

land." The government was saved from recalling Bagot by his death in office (May, 1843).

After him came Sir Charles Metcalfe who waged war against the principle of responsible government, very probably at the express bidding of the Tory ministry in power in England. Metcalfe precipitated a crisis. His ministry, with one exception, resigned in a body (Nov., 1843). For some months the country, practically without a cabinet, seethed with controversy. The governor and the Tory party worked desperately, and in the ensuing elections (1844) obtained a slight majority. But their cause was in reality lost. Metcalfe lingered in office till 1845. After him the principle of responsible government was never disputed. It found its great ratification four years later under the governorship of Lord Elgin. This was the occasion of the Rebellion Losses Bill, which has since served as a precedent for British colonial relations. The La Fontaine-Baldwin ministry, restored to office, brought in a bill to pay owners of property for losses in the rebellion of 1837. To the Tories this meant compensation to the rebels themselves. They bitterly opposed the bill and in a riot at Montreal stoned the governor's carriage and burned the houses of parliament; they clamored for the recall of Lord Elgin, and the imperial disallowance of the bill. The governor held firm and assented to the bill. The British Government, now controlled by a Liberal cabinet, refused to disallow it. Since that time the principle stands firm that colonial legislation of a local character sanctioned by the legislature with a responsible ministry at the head of it, will not be disallowed by the imperial government.

The Governor General.—Responsible government, thus established, in Canada runs on similar lines to the cabinet government of the United Kingdom. The position of the governor general is parallel to that of the king, in whose name he acts. While exercising great social and personal influence, he is without independent political power. Everything that he does is done with the advice of his ministry. It is true that he may reserve Canadian legislation for the consideration of the Crown. Prior to 1878 the instructions given him in writing at the time of his appointment commended him to reserve certain classes of bills. The Canadian Government, however, urged that such reservation was undesirable. The instructions, therefore, were altered, and reservation though constitutional has fallen out of use. In the same way the power of pardon is now exercised, solely on the advice of the minister of justice. According to settled precedent the imperial government will not interfere in any local matter. Even for the dismissal of the lieutenant-governor of a province by the governor general, the advice of the Dominion cabinet is final. This was settled by the acquiescence of Lord Lorne in 1879, on instructions from the imperial

government, in the dismissal of a lieutenant-governor of Quebec by the Macdonald ministry. Only in certain cases will the governor general be called on to act upon his own responsibility. One of these must necessarily be in regard to the dissolution of Parliament. He is not bound to accept the demand of a ministry out-voted in the House of Commons for a new election. The refusal of the governor, Sir Edmund Head, to dissolve Parliament, (1858) set a precedent in this case. The governor general remains the representative in the last resort of the power of the British Crown, and in moments of national danger, or civil conflict, he might have to depart from the constitutional limits just described. But these are cases which can hardly be defined in strict terms of public law.

Organization of the Executive.—In Canada there is no distinction, as there is in England, between the cabinet and the ministry. The cabinet includes the chief executive officers and persons nominated to the privy council, to act as members of the cabinet without portfolio. The executive departments are organized under statutes of the Dominion. The position of the executive councils or cabinets of the provincial governments is parallel to that of the federal cabinet.

Responsible Government and Independence.—It must be understood that responsible government stops definitely short of colonial independence. Legally speaking, the sovereign power of the British Parliament is unimpaired and may be exercised at any time. "The British North America Act," said Judge Gray, (himself a member of the Quebec Conference of 1864) in a decision of the supreme court of British Columbia, "was framed not as altering or defining the changed or relative positions of the Provinces towards the Imperial Government, but solely as between themselves. . . . as the paramount or sovereign authority (the British Parliament) could not be restrained from future legislation. . . . It was not intended as a declaration that the imperial government renounced any part of its authority." In practice, of course, the imperial government in no way interferes with the constitution of Canada, or legislation adopted under it. Such changes as have been made by imperial statute in the constitution of Canada (1871, 1886 and 1907, and the Parliament of Canada Act of 1875) have been made in response to, and in the terms of, addresses sent up by the Canadian Parliament.

See CANADA, DOMINION OF; CANADIAN PROVINCES; PARLIAMENT, CANADIAN.

References: A. Todd, *Parliamentary Government in the British Colonies* (2d ed., 1894); A. B. Keith, *Responsible Government in the Dominions* (1909); S. Leacock, "Responsible Government in the British Colonial System" in *Pol. Sci. Review*, I (1907), 355-392; V. R. Markham, "Lord Durham and the Colonies" in

Nineteenth Century, LXIX (1906), 914-923; J. G. Bourinot, *Manual of Const. Hist. of Canada* (188), *Story of Canada* (1896).

STEPHEN LEACOCK.

RESTRAINT OF TRADE. In the opinion on the Standard Oil Company *et al.*, appellants, *vs.* The United States, the Supreme Court for the first time defines and limits the term "restraint of trade" as prohibited by the Sherman Anti-Trust Law.

The court says that the meaning of the term "restraint of trade and monopolization" must be sought in the common law, and that by the common law any contract which tended to bring about any of the recognized evils of monopoly was held to be unlawful. These evils of monopoly are: first, "the power which the monopoly gave to one who enjoyed it to fix the price and thereby injure the public; second, the power which it engendered of enabling a limitation on production; third, the danger of deterioration in quality of the monopolized article which it was deemed was the inevitable resultant of the monopolistic control over its production and sale."

Of these three evils, the court deemed the power to fix the price of the necessities of life to be the most serious, and continually refers to this as a controlling consideration in determining whether the appellant company is an unlawful combination in restraint of trade.

Starting from this classification of the evils of monopoly, the court finds that the common law by which the term restraint of trade and monopoly should be interpreted, treated as illegal "all contracts or acts which were unreasonably restrictive of competitive conditions, either from the nature or character of the contract or act or where the surrounding circumstances were such as to justify the conclusion that they had not been entered into or performed with the legitimate purpose of reasonably forwarding personal interest and developing trade, but on the contrary were of such a character as to give rise to the inference or presumption that they had been entered into or done with the intent to do wrong to the general public, and to limit the rights of individuals, thus restraining the free flow of commerce and tending to bring about the evils, such as enhancement of prices, which were considered to be against public policy." Both the Standard Oil Company and the American Tobacco Company, measured by this standard, were declared to be in violation of the Sherman Anti-Trust Act, and their dissolution was ordered.

In spite of the many criticisms from influential sources of these opinions on the ground that they are vague and indefinite, a careful reading of the paragraph just quoted, coupled with the decisions in these two cases, shows that any combination of competitors which aims at securing such a dominant position in

any branch of trade or industry that it will have the power, whether this power is exercised or not, to fix prices, especially of the necessities of life, will be regarded by the Supreme Court, if the question is brought before it, as a combination in restraint of trade.

See LAW, COMMON: REASONABLENESS IN RESTRAINT OF TRADE; SHERMAN ANTI-TRUST ACT.

References: G. H. Montague, "Shibboleth of Restraint of Trade" in *Electric Magazine*, CXLVIII (Jan., 1907), 18-23; F. H. Cooke, *Law of Combinations, Monopolies and Labor Unions* (1909), chs. xvi, xvii; Bruce Wyman, "Cases on Restraint of Trade" in Harvard Law School, *Publications*, III (1911); "Trusts and the Doctrine Against Contracts in Restraint of Trade" in *Am. Law Review*, XXXIII (1899), 63; F. J. Goodnow, in *Pol. Sci. Quart.*, XII (1899), 212-245; W. H. Harper, *Restraint of Trade* (1909). E. S. MEAD.

RESULTING POWERS. In ascertaining the powers of the Federal Government it is not necessary that the power sought shall be ancillary to some one particular enumerated power, but from the nature of the Federal Government as determined by its enumerated powers in the aggregate may be implied resulting powers reasonably proper and necessary to be exercised in discharging the functions of a government on which the expressed powers have been conferred (see IMPLIED POWERS). In his cabinet paper on the Bank Bill, Hamilton said:

It is not denied that there are *implied*, as well as *express powers*, and that the *former* are as effectually delegated as the *latter*. And for the sake of accuracy it shall be mentioned that there is another class of powers, which may be properly denominated *resulting powers*. It will not be doubted, that if the United States should make a conquest of any of the territories of its neighbors, they would possess sovereign jurisdiction over the conquered territory. This would be rather a result, from the whole mass of the powers of the government, and from the nature of political society, than a consequence of either of the powers specially enumerated.

See CONSTRUCTION AND INTERPRETATION.

Reference: A. Hamilton, *Works* (ed., 1851), IV, 104-107. E. McC.

RESUMPTION OF SPECIE PAYMENTS. This term refers to the redemption of legal tender notes in 1879 and thereafter, putting an end to the suspension of specie payments by the government and the banks which began early in December, 1861. See LEGAL TENDER CONTROVERSY. References: D. R. Dewey, *Financial History of the U. S.* (1903), 372-378; A. S. Bolles, *Financial History of the U. S.*, III (1886), 282-304. D. R. D.

RETALIATION ACT. A name applied to the act passed by Congress, 1818, excluding from United States ports British vessels from any British colonial port from which American vessels were excluded, in retaliation for British exclusion of American vessels from

British West Indies. The embargo acts of 1794 and 1807, the non-importation act of 1806, and the non-intercourse act of 1809 were acts in retaliation for the British Orders in Council and the French Decrees. O. C. H.

RETIRED LIST. A term denoting the list of Army and Navy officers relieved from active service under certain conditions (especially at the age of sixty-four for army officers and sixty-two for navy officers). They receive 75 per cent of the salary of their rank and are subject to court-martial. O. C. H.

RETIREMENT OF JUDGES. The judges of the federal courts hold office during good behavior and can be removed only by impeachment. While their independent position is one of the chief causes of their usefulness it must be recognized that judges may through sickness or age become incapacitated. Since such incapacity would not warrant impeachment, and a judge could not be compelled to resign, it only remained for Congress to remove all financial obstacles to retirement by providing, as it did in 1869, that any federal judge who had attained the age of seventy and had served as judge for ten years might retire and continue to receive for the rest of his life the full salary to which he was entitled at the time of his resignation. Several judges who had become incapacitated but who could not meet the requirements of this act have been retired on full pay by special acts. In the states judges are usually elected for short terms and no such provision is necessary. Rhode Island however allows her judges to retire on full pay after twenty-five years' service, and Massachusetts and Maryland allow the same privilege, the retiring allowance however being less than the salary. In Connecticut, where judges are retired at the age of seventy, they are appointed state referees for life at a reduced salary. See PENSIONS, CIVIL. References: S. E. Baldwin, *American Judiciary* (1905), 326; A. B. Hart, *Actual Government* (1904), 300. L. B. E.

RETIREMENT OF MILITARY AND NAVAL OFFICERS. The half pay for life promised the officers of the Continental Army might have been regarded as providing for their retirement; but this was commuted in 1783 for five years' full pay. Washington favored a liberal provision for the professional officers of a regular establishment as a means of securing service for life; and later generations of officers have served under an implied contract to this effect. Retirement has never been granted to officers whose services was discreditable or intermittent, and it has been withheld from volunteer officers, though exceptions have been made by special acts of Congress.

The need of compulsory retirement was evident when disabled or superannuated officers

were called to commands during the Mexican War; but it was not until 1861 that any general law was passed. Retirement after 45 years' service is the general rule; but it is compulsory for officers of the Army or Marine Corps upon attaining the age of 64, for officers of the Navy at 62; and for all in case of disability incident to the service. Officers may retire after 30 years' service if their application is approved by the President; and voluntary retirement in certain grades of the Navy has been authorized since 1899 in order to maintain a regular flow of promotion, officers being selected for retirement if the 40 specified vacancies are not produced by casualties or voluntary retirements. Retirements under this law carried advancement to the next higher grade up to 1913, when there was a proportionate increase in the number of compulsory retirements. Promotion to a higher grade on retirement was also granted to all survivors who served during the Civil War. To be "wholly retired" is to be dropped from the service.

Officers retired for disabilities not incident to the service receive half pay; and the lower rate of "furlough pay" may be allotted to those separated for misconduct at the discretion of a retiring-board. The attempt to limit the number of officers of the Army has been abandoned; but it is proposed to adopt a graduated scheme of retirement for both services with retired pay proportionate to length of service. Nearly all retired officers, including a few who have served less than 30 years, receive three-fourths of the pay of the rank which they hold on the retired list.

In 1912 the Army had 1,017 officers on the retired list, of whom 5 were lieutenant-generals, 5 major-generals, and 251 brigadier-generals; and the Navy had 920, including 148 rear-admirals, 53 commodores, and 226 warrant officers. The Marine Corps has 63 officers on the retired list. Enlisted men in both services may retire with three-fourths of their pay after 30 years service.

See ARMY, STANDING; OFFICERS, MILITARY AND NAVAL; PENSIONS, MILITARY AND NAVAL; PUBLIC OFFICERS, CLASSIFICATION AND DUTIES OF.

References: L. C. Hatch, *Administration of the Am. Revolutionary Army* (1904), 79-82, 143; E. Upton, *Military Policy of the U. S.* (1907), 15, 63, 206, 254; U. S. Navy Department, *Annual Reports*, 1910, 289, 302, *Laws Relating to the Navy* (1898), 116-121, 515-517, *Navy Regulations*, 1909, 423, 424, *Navy Register* (annual), 201; W. Pulsifer, *Navy Year-book*, 1912, 741, 742, 747, 807, 810, 812, 825, and year by year; U. S. War Department, *Military Laws* (1908), 489-495, 515, 1228, 1231, *Army Register* (annual), *Annual Reports*, 1908, I, 82-90; 1910, I, 25, 162-164; 1912, I, 445, 446; and year by year.

C. G. CALKINS.

RETROSPECTIVE LEGISLATION. In the distribution of powers, the legislative department is given authority to make the laws, while it is for the judicial department to determine in each case the rules and principles of law applicable to transactions brought before it. Therefore legislation in its nature is prospective, not retrospective. It is not, however, beyond the scope of legislative power to pass remedial statutes which shall cure defects in proceedings which, owing to their irregularity in matters of form, are not effectual to accomplish the purposes intended. Thus irregularities in the execution of powers by guardians, administrators and others acting in a fiduciary capacity may be cured by retrospective legislation so that, from the time such legislation becomes operative, the proceedings which were irregular become as effectual as though they had been from the first in due form. Likewise, proceedings of municipal bodies not taken in the form required by law may be legalized. And even the insufficiency of the action of individuals which has not been in accordance with prescribed forms may be cured so as to carry out the real intent. The general rule is that the legislature may by retrospective action cure irregularities in regard to matters which might have been dispensed with or rendered immaterial by legislation antedating the doing of the irregular act; but it can not do this to the prejudice of rights which have become vested (*see VESTED RIGHTS*). Retrospective criminal statutes to the prejudice of one charged or to be charged with a crime already committed are prohibited by constitutional provisions (*see EX POST FACTO LAW*). Legislative interference with the obligation of pre-existing contracts is also prohibited (*see CONTRACT, IMPAIRMENT OF*). It is a rule of construction that statutes shall not be given a retroactive effect unless such is the plain intention of the legislature. References: T. M. Cooley, *Constitutional Limitations* (7th ed., 1903), 135, *et seq.*, *Principles of Constitutional Law* (3d ed., 1898), 354-60; W. W. Willoughby, *Constitutional Law* (1910), II, 1265.

E. McC.

RETURNING BOARDS. State laws differ widely as to the methods by which the results of popular elections shall be officially determined. In some the returns are sent from the individual voting districts to the secretary of state; in others they are sent directly to the presiding officers of the branches of the legislature, and are opened and canvassed in their presence. Still other states designate certain officers to serve as returning boards. In regard to such boards the chief question has been, have they purely ministerial powers, or may they pass upon the validity of the returns and correct mistakes? In interpreting its own powers, a board's choice between varying precedents may vitally affect the result.

Returning boards figured most prominently in our history in the decade following the Civil War, when the legislatures of Louisiana, South Carolina and Florida created state returning boards and gave them judicial powers in canvassing the results of elections. In 1876 these boards, by and with the advice of Republican "visiting statesmen," proceeded to "go behind the returns," and, alleging election irregularities, threw out the votes of many districts. In the confusion and bitter feeling which developed, Congress instituted the Electoral Commission (*see*) to determine the results of the presidential election.

At present, there is general acceptance of Judge Cooley's dictum, that state returning boards "act for the most part in a ministerial capacity, and are not vested with judicial powers to correct the errors and mistakes that may have occurred with any officer who preceded them in the performance of any duty connected with the election, or to pass upon any disputed fact which may effect the result." Such powers can be conferred by the legislature only if it is authorized so to do by the constitution.

See ELECTION SYSTEM IN U. S.; ELECTIONS, CONTESTED.

Reference: T. M. Cooley, *Constitutional Limitations* (7th ed., 1903), 935.

GEORGE H. HAYNES.

RETURNS, CAN'T GO BEHIND THE. A phrase indicating the demands of the Republican party, adopted by the electoral commission Feb. 7, 1877, in the Hayes-Tilden disputed election case, that the commission was not competent to investigate the eligibility of the list of electors submitted by the state authorities. See ELECTORAL COMMISSION. O. C. H.

REVENUE, BILLS FOR RAISING. The Constitution (Art. I, Sec. vii, ¶ 1) provides that "all bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills." The chief difficulties of this provision have been as to: (1) the definition of "bills for raising revenue"; (2) the scope of the Senate's amending power; (3) the bearing of this clause on the treaty-making power. There has been much controversy between the two houses on all these points. It has been ruled in the House that a bill for raising revenue is one arising out of the power of Congress to lay and collect taxes, duties, imposts, and excises. In the case of *U. S. vs. James* (13 *Blatchford* 207), decided by the federal circuit court, a fuller definition is given

Certain measures are unmistakably bills for raising revenue. These impose taxes upon the people, either directly or indirectly, or lay duties, imposts, or excises for the use of the government, and give to the persons from whom the money is exacted no equivalent in return, unless in the enjoyment, in common with the rest of the citizens, of the benefit of good govern-

ment. It is this feature which characterizes bills for raising revenue. They draw money from the citizen; they give no direct equivalent in return.

In this case it was held that an act fixing certain rates of postage was not a bill for raising revenues.

This definition has not been understood to include appropriation bills, or bills for other purposes which incidentally create revenue. Thus it was held that the National Bank Act though imposing a tax upon the circulation of bank notes, was not a bill for raising revenue within the meaning of the constitution (*Twin City Bank vs. Nebeker*, 167 *U. S.* 196). Connected with the question of definition is the controversy as to whether a bill repealing an existing tax is a bill for raising revenue; except for two early instances the House has always vigorously denied the Senate's power to originate such measures. The Senate on its side has just as stoutly insisted on the opposite view.

The Senate has always freely exercised its constitutional right to amend revenue bills. The Payne-Aldrich (*see*) Tariff Bill of 1909 furnished ample illustration of this. The Senate's right in this matter has, in fact, never been questioned. The trouble over the amending clause has arisen out of attempts on the part of the Senate to add revenue provisions to non-revenue bills, or so to amend House revenue measures as essentially to change their nature. Both these matters have more than once been submitted to conferences, but without definite result.

Another conflict has been that between the House and the treaty-making power as to the right of the latter to conclude treaties having revenue clauses. Strict interpretation might limit the constitutional provision to "bills," that is to propositions for statutes. In practice, however, the spirit rather than the letter of the clause has prevailed. At all events the Senate does not pass treaties repealing or annulling existing revenue laws without coöperation of the House: an example is the Canadian Reciprocity Bill under discussion in 1911. The Supreme Court has never passed on this matter directly, although there are two cases (*Bartram vs. Robertson*, 122 *U. S.* 116 and *Whitney vs. Robertson*, 124 *U. S.* 190) which might possibly indirectly imply that a treaty might modify revenue laws.

See APPROPRIATIONS; CONGRESS; HOUSE OF REPRESENTATIVES.

References: A. C. Hinds, *Precedents of the House of Representatives* (1907), II, ch. xlvii; W. W. Willoughby, *The Constitutional Law of the United States* (1910), I, 488-492; 566-567.

ANDREW C. McLAUGHLIN.

REVENUE CUTTER SERVICE. A branch of the Treasury Department, under the direct control of the Secretary of the Treasury and a captain commandant appointed by the Pres-

ident with the consent of the Senate. Its original function when organized in 1790 was to assist the customs officials, and the officers of the revenue cutters board vessels to inspect and demand manifests, examine the cargo, affix proper fastenings on the latches, accompany the vessels to their American destination, and fire on any vessels subject to examination which do not bring to when requested. In addition, revenue cutters aid the Department of Commerce in the task of enforcing the navigation laws and the Alaskan seal hunting and fishing laws. When detailed by the Secretary

of the Treasury, they aid the Life Saving Service by acting as inspectors of stations, and in other ways as required by the general superintendent. They also aid vessels in distress, and remove derelicts from the paths of sea-going vessels. See *TARIFF ADMINISTRATION; TREASURY DEPARTMENT. References: U. S. Treasury Department, Navigation Laws of the U. S. (1911); U. S. Revenue Service, Annual Report; Acts of June 18, 1878, March 6, 1896, Dec. 29, 1897, May 12, June 14, 1906, April 16, 1908, April 21, 1910; Revised Statutes, §§ 1506, 2759-2768.* G. G. H.

REVENUE, INTERNAL

First Federal Statutes (1791-1816).—Internal revenue or excise duties have been imposed at three different periods: 1791-1802; 1813-1818; and since 1862. When the revenue system was framed in 1789, there was much opposition to excise duties; they were regarded as an invasion of domestic personal rights, creating an undue extension of federal power. The need of additional revenue led, however, to the imposition, in 1791, of duties upon distilled spirits. Bitter resentment caused open conflict in Pennsylvania, seen in the Whiskey Insurrection (*see*) of 1794. As the tax failed to yield revenue, duties were imposed in the same year upon carriages, sales of certain liquors, manufacture of snuff, refining of sugar and auction sales. In 1802 these taxes were repealed by the Republicans who had just come into power. The total yield of all these taxes was \$5,300,000, as compared with \$65,500,000 collected from customs during the same period—a ratio of about 1:12.

Financial necessity again brought similar duties into operation in 1814, in order to provide revenue for carrying on the war with England. In 1818, when the emergency was over, the taxes were repealed. The receipts during this five-year period were \$15,000,000 as compared with \$93,000,000 from customs—a ratio of about 1:6.

War Internal Revenue.—No further attempt was made to revive internal revenue duties until the financial crisis created by the Civil War. Revenue was sought for from every quarter; loans were made, treasury notes issued, and customs duties increased; and it was inevitable that Congress should turn once more to the taxation of domestic industry and trade. Duties were therefore imposed upon a wide range of objects: luxuries represented by spirits, ales, beer and tobacco; licenses upon occupations; duties upon manufactures and products; taxes on auction sales, carriages, yachts, billiard tables and plate; upon slaughtered cattle, hogs and sheep; upon railroads, banking institutions and insurance companies; upon salaries and pay of officers in the serv-

ice of the United States; upon income and legacies; and an extended list of stamp duties. According to David A. Wells, Congress followed the principle, "Wherever you find an article, a product, a trade, a profession or a source of income, tax it."

In 1864 these duties were increased and extended to new objects. The duty on spirits was increased from 20 and 60 cents per gallon to \$1.50 and \$2.00 per gallon. The maximum tax on cigars was raised from \$3.50 to \$40.00 per thousand. The general ad valorem rate was increased by from 3 to 5 per cent. As summarized by Howe, "Nothing was omitted from the raw product to the finished commodity. Often an article received a half dozen additions ere it reached the consumer, and not only were all the constituent elements which entered into an article taxed, as the bolts, castings, trimmings and the like of an engine, but the engine when completed was subject to an ad valorem duty upon its value, while all repairs which increased the value of an article 10 per cent were rendered dutiable at a like rate."

Commodities were taxed not only during manufacture, but also upon sale, so that from 8 to 20 per cent of the value of nearly every finished product went into the treasury. For the mechanical production of a book a dozen different taxes were levied; upon each constituent part of the book, as paper, cloth, leather, boards, thread, glue, gold-leaf, and type material, amounting in each case to from 3 to 5 per cent, while the finished product paid its tax of 5 per cent. The revenue from these sources exceeded expectation, amounting in 1866 to nearly a million dollars a day, far in excess of the yield from customs. By years the total receipts were as follows (in millions):

1865	-----	\$209.5
1866	-----	309.2
1867	-----	266.0
1870	-----	184.9
1875	-----	110.0
1880	-----	124.0
1885	-----	112.5
1890	-----	142.6

REVENUE, INTERNAL

Post Bellum Taxes.—When the war was over many of the taxes were reduced or repealed, especially those on manufactures and products. The only taxes left after the revision of July 14, 1870, were those on spirits, fermented liquors, tobacco; banks and bankers; a small amount on certain manufactures and

1902. In 1909 a special excise tax was placed upon the net profits of corporations; and slight increases were also made in the rates on certain manufactures of tobacco.

The following table shows internal-revenue receipts according to certain specified sources (in millions):

	Spirits	Tobacco	Fermented Liquors	Oleomargarine	Total
1875 -----	\$52.1	\$37.3	\$ 9.1	-----	\$110.5
1880 -----	61.2	38.9	12.8	-----	124.5
1890 -----	81.7	34.0	26.0	\$0.8	142.6
1900 -----	109.9	59.4	73.6	2.5	295.3
1910 -----	148.0	58.1	60.6	1.1	290.0
1912 -----	156.4	70.6	63.2	1.1	321.6

products; certain stamp taxes on bank checks, transfers and proprietary articles; and the income tax (to expire, however, in 1872). Unfortunately many of the changes in rates were made with little forethought or wisdom, particularly in the case of duties on distilled spirits. Taking advantage of the frequent fluctuations of rates, distillers were tempted to fraud which culminated in the disgraceful exposure of the Whiskey Ring in 1876 (see **WHISKEY FRAUDS ON THE REVENUE**).

In 1883 surplus revenue justified a reduction in taxes. Internal revenue taxes were sacrificed in part; first, because of a desire to keep the protective system embodied in tariff duties as intact as possible; second, because there was a lingering tradition that internal duties were war taxes suitable for an emergency, but not to be incorporated permanently into the scheme of taxation. Duties were consequently repealed on watches, savings bank deposits, capital and deposits of national banks, and on patent medicines and perfumeries; on tobacco they were cut in half. In 1890 a further reduction of 25 per cent was made on snuff, smoking and chewing tobacco, and the special license taxes upon the sale of tobacco were repealed. No longer, however, was there any contention that internal revenue duties as a whole should be abolished, for the treasury ceased to enjoy the large surpluses of the preceding decade. In 1887 a duty was imposed upon oleomargarine, rather to restrict the industry or to bring it in under federal supervision, than as a source of revenue. In 1894 a duty was placed upon playing cards, and a slight increase was made in the rates on spirits.

Spanish War Taxes.—In 1898 new duties were imposed on account of the Spanish War. The taxes on tobacco and fermented liquors were increased, special duties were laid upon banks, brokers and theatres; stamp taxes were imposed upon a great variety of commercial transactions, including the use of bank checks, express and freight receipts, and telegraph messages; upon patent medicines; firms engaged in refining sugar or petroleum were also taxed. All of these new taxes were repealed in

During the five years after the Spanish War, 1898–1902, receipts from stamp taxes averaged over \$27,000,000, and from inheritances (see) \$3,500,000 a year. In 1912 the yield of the corporation tax (see **TAX, CORPORATION**) was \$28,580,000.

Present Administration.—As now established, the internal revenue system forms as stable a support of government income as customs duties. In 1894 and 1898–1902 the proceeds were in excess of customs; and during the three years 1908–1910, for every \$100 of customs receipts there was collected \$84 in internal revenue duties.

From the foregoing table it will be observed that the revenue from duties on distilled spirits is the most important, yielding a little more than one-third of the total. Notwithstanding the enactment of state-wide prohibitory laws in some states and of local option (see) laws in others, the production of spirits increased by one-half between 1900 and 1910.

In the collection of the tax on distilled spirits there are many important technical details, the principal of which is the bonded system. As whiskey has to age in order to be a merchantable commodity, the law permits the distillers to place the product in bonded warehouses, under the supervision of the government, for a specified term of years from 3 to 8 years—and defer payment of duty until withdrawal. Under this liberal treatment, there is a tendency to manufacture in excess of demand, and to overstock the future market. This frequently leads to organized effort on the part of the distilling interest to secure a reduction of the rate of duty before withdrawal of the whiskey, since reduction would be so much clear profit to the distiller. Between 1898 and 1910 production was far in excess of withdrawal, so that the stock in hand increased from 112,000,000 to 233,000,000 gallons. The profit at stake, if only a slight lowering in the tax could be secured, is considerable.

Rates.—The incidence of tax on the cigar in ordinary use is three-tenths of a cent; and on smoking tobacco 8 cents a pound. The rates

on tobacco and liquors in force in 1914 were as follows:

Commodities	Rate
Cigars weighing more than 3 lbs. per 1000 -----	\$3.00 per 1000
Cigars weighing not more than 3 lbs. per 1000 -----	.54 per 1000
Cigarettes weighing not more than 3 lbs. per 1000, and worth whole-sale more than \$2.00 -----	1.08 per 1000
Cigarettes weighing not more than 3 lbs. per 1000, and of a whole-sale value not more than \$2.00 per 1000 -----	.54 per 1000
Cigarettes weighing more than 3 lbs. per 1000 -----	3.00 per 1000
Snuff -----	.06 per lb.
Tobacco -----	.06 per lb.
Fermented liquors per bbl. of not more than 31 gallons -----	1.00 per bbl.
Brewers, annual manufacture less than 500 bbl. -----	50.00
Brewers, annual manufactures of 500 bbl. or more -----	100.00
Retail dealers in malt liquors -----	20.00
Wholesale dealers in malt liquors -----	50.00

Collection.—The number of persons paying taxes either on products or for license were in 1910:

Rectifiers -----	2,413
Retail liquor dealers -----	217,813
Wholesale liquor dealers -----	6,652
Brewers -----	1,568
Retail dealers in malt liquors -----	19,655
Wholesale dealers in malt liquors -----	11,645
Retail dealers in oleomargarine free from artificial coloring -----	42,029
Cigar manufacturers -----	23,484
Manufacturers of tobacco -----	3,052

The collection of internal revenue is made by a bureau of the Treasury Department, at the head of which is a commissioner. The country is divided into 66 districts, in each of which there is a collector; and the total force of employees of the entire service in 1910 amounted to 3834. The cost of collecting the duties in 1910 was 1.74 per cent of the revenue, as compared with an average of 2.66 since the creation of the bureau. Revenue is collected through the sale of stamps which are affixed to the products, or in the case of licenses, by the issue of certificates or notices which must be displayed in the places of business of the licensees.

See FINANCIAL POLICY OF THE UNITED STATES; FINANCIAL STATISTICS; IMPORTS; LIQUOR LEGISLATION; OLEOMARGARINE TAX; REVENUE, PUBLIC, COLLECTION OF; STAMP TAX.

References: F. C. Howe, *Taration and Taxes in the U. S. under the Internal Revenue System, 1791-1895* (1896), U. S. Commissioner of Internal Revenue, *Annual Reports* (containing statistics and laws); W. M. Daniels, *Public Finance* (1899), 136-143, tax on spirits; F. L. Olmstead, "Tobacco Tax" in *Quart. Journ. Econ.*, V (1891), 193, 262; D. R. Dewey, *Financial Hist. of the U. S.* (3d ed., 1907), 105-108, 119, 138-140, 301, 391-395, 418-419, 465-467; A. B. Hart, *Actual Government* (3d ed., 1910), 401-403; C. C. Plehn, *Intro. to Public Finance* (3d ed., 1909), 204-214; C. F. Bastable, *Public Finance* (2d ed., 1895), 475-486. English practice.

DAVIS R. DEWEY.

REVENUE, PUBLIC, COLLECTION OF. A government is immediately dependent for its support upon the revenue which it may collect. Consequently it is necessary that taxes be collected promptly; and it is also desirable that the methods of collection be inexpensive. The cost of collection, however, depends upon the kind of tax from which the revenue is derived. The collection of federal revenues through customs and internal revenue duties is in a measure automatic. Foreign goods cannot be imported, and domestic goods cannot be manufactured or sold until the importer, manufacturer or merchant has satisfied the revenue authorities. Not until then does the commercial transaction become lawful; and if not done the act is tainted with fraud, subjecting the doer to heavy penalties, such as confiscation of property in excess of the tax, and even fine and criminal suit. The result is that federal taxes are easily collected.

Nor does the law tolerate delay. Cash must be paid without credit at the time of entry of imported goods, except for goods temporarily stored in bonded warehouses. In the case of internal revenue taxes, stamps are sold which must be affixed to the goods subject to the tax, or licenses must be taken out before certain manufacturing or mercantile operations can be begun. Goods without the proper stamps may be seized, and persons without licenses may be arrested. In neither branch of the service are there delinquent accounts save those due to fraud or commercial failures.

State and Local Taxes.—It is entirely different in the collection of state and local taxes, except that minor part which is derived from fees and licenses. Taxes are assessed by states and municipalities against individuals and corporations; bills are rendered calling for payment within a certain specified time; and if not paid pecuniary penalties are imposed, and the bills put in the hands of officials to collect by regular processes of law. The law, however, permits great leniency, and property is not seized until a considerable period of time has elapsed. Even then, in the final settlement, the taxpayer is subject only to slight monetary penalties, primarily designed to cover interest and costs of bringing proceedings. The burden of collection is, therefore, upon the government rather than upon the taxpayer. Delinquency or neglect is not a crime or misdemeanor.

Customs Duties.—Payments of customs duties are made to the collector of the port and by him transmitted to the Treasury Department. The payment may be made in gold, silver, United States notes, and gold and silver certificates. In New York duties may be paid by special orders drawn upon coin previously deposited in the subtreasury. By far the largest amount is collected at New York, amounting in 1910 to 64 per cent of the total. To state accurately the exact cost of collect-

ing customs is not possible as the treasury reports do not include in cost the expense of building customs-houses, or their annual care, or the expenditures for revenue cutters. Excluding these items, the annual cost of collection has varied in the years 1900-1910 from 2.55 to 3.48 per cent. This cost, which is materially higher than in Great Britain, is due to the enforcement of stringent regulations demanded by an extensive range of protective tariff duties.

Internal Revenue.—For indirect taxes imposed upon products, the manufacturer purchases stamps, which are destroyed when the packages are opened. Penalties for non-payment extend not only to the products but also to the property employed in the manufacture. The cost of collection is low, not exceeding since 1900 two per cent per annum.

State taxes, with the exception of certain corporation taxes which are paid directly to state officials are collected either by county collectors, by township collectors, as in New York and Pennsylvania, or by towns which are responsible in their corporate capacity, as in most of the New England states. The collectors may be paid by salary, or by fees and commissions, the latter being common in smaller towns. The most common penalty for delinquency is the addition of a certain percentage of the original tax, or the charge of collectors' fees, costs and interest. In some states there is a rebate for prompt or advance payment.

Municipal Taxes.—Municipal taxes are collected in much the same way as state taxes. The cost of collection of revenue in 158 cities having a population of over 30,000, in 1908 was \$2,580,000, or a little over one-half per cent of the total revenue. In a few states where there is a state Tax Commission, certain taxes are not only assessed but collected by the commission. This is particularly true of inheritance taxes when the revenue accrues to the state treasury.

See ASSESSMENT OF TAXES; COLLECTOR OF CUSTOMS; COLLECTOR OF INTERNAL REVENUE; CORPORATIONS, TAXES ON; REVENUE, INTERNAL; TARIFF ADMINISTRATION.

References: U. S. Census Bureau, *Wealth, Debt and Taxation* (1907), 620, 630, 643, 645; C. C. Plehn, *Introduction to Public Finance* (3d ed., 1909), 43, 431-433, 436.

DAVIS R. DEWEY.

REVENUE, PUBLIC, SOURCES OF. In the latter half of the sixteenth century (1576) a French writer, Bodin, wrote that there were seven ways of raising public revenue: from landed domain, conquest, gifts, tribute from subject states, public traffic or trading, customs duties upon merchants who bring in or carry out merchandise, and taxes upon citizens. The first, revenue from public land, was held to be the most just and certain of all. Not only

in ancient times but in the mediæval period, many governments relied largely upon rents and use of public estates for support. With the advent of democratic institutions, governments have been largely stripped of their self-sustaining powers: lands have been alienated to private ownership; and until recently governments participated less and less in public industry.

For more than a century taxes have been the chief source of revenue of most nations. Besides taxes, there are fees, assessments, sales of property, rent of property, commercial or contractual receipts prices, fines and forfeitures, gifts, and loans. The distinction between the first three—taxes, fees and assessments—is not always sharply defined; but in general it may be said that a tax is a forced, compulsory contribution, levied presumably for the common benefit; a fee is a compulsory charge for a special benefit, made for services "constantly recurring in the ordinary course of relations between a government and its subjects" (Hadley); and an assessment is similar to a fee except that "it is levied once for all to meet some extraordinary expense." Another distinguishing mark is that a fee is charged for a transaction, while an assessment is levied upon property. More specifically, according to Seligman, an assessment is a "payment made once for all to defray the cost of a specific improvement to property undertaken in the public interest, and levied by the government in proportion to the particular interest accruing to the property owner," while "a fee is a payment to defray the cost of each recurring service undertaken by the government primarily in the public interest, but conferring a measurable special advantage on the fee-payer." A fee, therefore, is a payment for a special benefit as distinguished from a tax which has a common benefit in view. Although an assessment has a common benefit as its object, the special benefit is so great that an additional payment over and above an ordinary tax is considered to be justifiable.

Commercial receipts or prices are "charges for special services which people are not compelled to accept unless they choose" (Hadley), or "payments made by an individual for a service or commodity sold by the government primarily for the special benefits of the individual, but secondarily in the interest of the community" (Seligman).

Bureau of Census Schedule.—In its effort to secure greater uniformity in public accounting, the Bureau of the Census, following Professor Plehn, has adopted the following classifications of revenues, in which greater consideration is given to administrative needs and practice:

I. General revenues; being compulsory or voluntary contributions, levied to defray the general cost of government, and not conditional upon the performance of any specific service to the individual contributor. Here are placed receipts from taxes, licenses, permits, penalties, fines, forfeits, subventions, grants, donations, gifts.

REVENUE, PUBLIC, SOURCES OF

A. Taxes:

(1) Property taxes: (a) General property, or direct taxes upon property in proportion to appraised or assessed value; (b) Special property, as corporation, bank, security, and mortgage taxes.

(2) Business taxes.

(3) Poll taxes.

(4) Other taxes, as taxes on income, commissions of public offices, litigation taxes, frontage taxes, tonnage taxes, customs, and internal revenue taxes.

B. Licenses and permits; here are included revenues when the granting of a license or permit is a condition to the transaction of business. Such revenue includes a fee or charge for the clerical labor in issuing and recording the license, and a tax in excess of the fee. Sometimes they are known as occupation or privilege taxes.

C. Penalties, fines and forfeits are collected as punishment for failure to obey civil and criminal laws and local ordinances.

D. Subventions include receipts by one governmental unit from another, as a municipality from a state, to be used for some particular governmental service, as schools.

E. Grants are receipts like subventions, but with no condition attached to the gift.

F. Donations and gifts are payments by individuals to a government.

II. Commercial revenues. These may be divided into three subclasses, as income from industries, investments, and special services.

A. Industrial income, as from the post office, water works, electric lighting, etc. Industries undertaken by cities are in England referred to as examples of municipal trading.

B. Investment income, as rent, interest, and dividends from real estate or securities held by the government as investments.

C. Special service income refers to receipts from special service other than industries. They are subdivided into two classes according as they are available for meeting special-service expenses and special-improvement outlays. In the former are included fees, and in the latter payments or assessments for the opening of highways, construction of pavements, sprinkling of streets, etc.

Federal Analysis.—Unfortunately the accounts of the federal treasury are not kept in a form which admits of a classification of revenue in strict conformity to private or academic usage. By far the largest amount of revenue is derived from taxes: in 1910, out of total receipts of \$900,000,000, taxes from customs and internal revenue provided \$627,000,000. Fees are included under one entry, "consular, letters patent and land," amounting to \$5,741,000. Commercial receipts or prices are derived from the postal service and the mint; from the former was obtained \$224,000,000; from the latter it is not possible from accounts available to determine the exact amount received, but the Treasury report credits \$4,120,000 as "profits on coinage, bullion deposits and assays." From sales of property, the following items are to be noted: public lands, \$6,356,000; government property, \$1,665,000; ordnance material, \$278,000. From fines and forfeitures the receipts are as a rule insignificant. Occasionally, as in the recent cases of penalties imposed upon sugar refining companies (*see SUGAR FRAUDS*), the penalties run into the millions, but these are exceptional. Gifts to the national government are rarely made, and as a source of revenue may be disregarded. Revenue from loans is only occasional, depending upon special emergencies; since 1880 there have been only ten years in which public debt receipts exceeded a million dollars. In past years relatively large sums

have been received from sales of public lands; in 1835, 1836 and 1855 together it exceeded \$40,000,000. The total receipts from this source since the establishment of the government have been (to 1910) nearly \$360,000,000, or less than 3 per cent of the combined total of customs and internal revenue.

Census Analysis of Non-Federal Receipts.—

The revenues of states and cities are far more varied than are those of the Federal Government; and owing to the activity of various societies and organizations which have carried on a persistent agitation for twenty years in favor of uniform accounting (*see*), a more intelligible classification has been made by the Bureau of the Census. For all states, cities, and minor civil divisions the revenue receipts in 1902 were:

Revenue	Amount	Per cent
Taxes -----	\$785,569,000	70.9
General property tax -----	\$706,660,000	
Special property and business tax -----	62,327,000	
Poll tax -----	16,582,000	
Licenses: -----	75,082,000	6.8
Liquor -----	55,241,000	
Other licenses and permits -----	19,841,000	
Fines and forfeits -----	7,962,000	
Subventions and grants -----	60,985,000	5.5
Donations and gifts -----	2,903,000	.3
Commercial revenues -----	172,939,000	15.6
All others -----	2,127,000	.2
Total -----	\$1,107,569,000	100.0

By specified civil divisions the percentage of receipts from commercial and general revenues were as follows:

	Commercial Revenues	General Revenues
States and territories ----	15.8	84.2
Counties -----	10.0	90.0
Cities with over 25,000 inhabitants -----	22.0	78.0
Cities with 8,000—25,000 inhabitants -----	20.7	79.3
All other minor civil divisions -----	6.6	93.4

If the general receipts be considered apart from the commercial revenues the percentages by sources were as follows:

	Per cent	
Taxes -----		81.1
General property tax -----	75.6	
Special property and business taxes -----	6.7	
Poll taxes -----	1.8	
Licenses -----		8.0
Liquor -----	5.9	
Other -----	2.1	
Fines and forfeits -----		0.9
Subventions and grants -----		6.5
Donations and bequests -----		0.3
All others -----		0.2

REVENUE, SURPLUS

The greater portion of subventions and grants is represented by sums received by states from the national government in aid of agricultural colleges and experiment stations.

Commercial Revenues.—The commercial revenues of states amounted in 1902 to nearly 16 per cent of the total revenues; this was derived from interest on sinking and trust funds, from rents of school lands in western states; from industries in penal institutions, and from state owned enterprises in three states—South Carolina, a state dispensary (since given up); in Ohio, state canals; and in California, docks and wharves in San Francisco.

A still more detailed classification of revenues is now made by the Bureau of the Census for cities with population of over 30,000, and for 1908 the following figures are taken to illustrate the nature of their commercial revenues:

Water supply systems	\$55,268,000
Electric light and power systems	1,470,000
Gas supply systems	844,000
Markets and public scales	1,431,000
Docks, wharves and landings	3,975,000
Cemeteries and crematories	611,000
Institutional industries	633,000
All others	4,906,000
Total	\$69,138,000

This is to be compared with \$480,000,000 obtained by taxes.

See ASSESSMENT OF TAXES; ASSESSMENT, SPECIAL; BETTERMENTS, ASSESSMENTS FOR; CORPORATIONS, TAXES ON; FINES AS SOURCES OF REVENUE; FORFEITURES AS A SOURCE OF REVENUE; GIFTS FOR PUBLIC PURPOSES; OLEOMARGARINE TAX; PUBLIC PROPERTY; REVENUE, PUBLIC, COLLECTION OF; and under TAXATION; TAXES.

References: C. J. Bullock, *Selected Readings in Public Finance* (1906), 50–60; C. C. Plehn, *Intro. to Public Finance* (3d ed., 1909), 79–102; H. R. Seager, *Intro. to Economics* (3d ed., 1905), 540; E. R. A. Seligman, *Essays in Taxation* (2d ed., 1897), ch. ix; C. F. Bastable, *Public Finance* (2d ed., 1895), 143–156; W. M. Daniels, *Elements of Public Finance* (1899), 207–264; U. S. Census Bureau, *Wealth, Debt, and Taxation* (1907), *Statistics of Cities* (1908).

DAVIS R. DEWEY.

REVENUE, SURPLUS. In contrast with European systems of national finance, there is no equalization of receipts and expenditures in the annual budgets of the Federal Government of the United States. This is due: (1) to the lack of a central control of revenue appropriations in a single official or committee; (2) to the predominating influence of tariff duties in the revenue system, whereby it is difficult to make accurate forecasts owing to the fluctuations in international trade; (3) to the youth and rapid growth of the country, attended by reactions in business and industry.

There has, moreover, been a disposition to provide revenue generously, partly because of a deep-seated aversion to a standing national debt, especially marked before the Civil War; and partly because of the unexpected fruitfulness of tariff duties imposed through a long period of devotion to the protective system. As a consequence, except during periods of war, the federal treasury has enjoyed a surplus in most years. The handling of these surpluses has created several difficult problems, among them: (1) the disposition of a surplus when there is no public indebtedness to be paid off; (2) the use of the surplus when the debt has definite terms of years to run and consequently cannot be bought at par; (3) the locking up of funds in the public treasury and subtreasuries with possible embarrassment to the money market. An indirect consequence of the occurrence of a surplus is the disposition of Congress to increase its expenditures for purposes not of national or immediate importance.

In 1835 the national debt was paid off; but there was no disposition to reduce taxes in harmony with the decreased needs of the treasury. On the contrary, the existence of a surplus invited all sorts of extravagant expenditures. As a method of temporary settlement of the question a bill was passed in 1836 providing that the funds in the treasury over and above \$5,000,000 should be deposited with the several states, and \$27,000,000 was thus distributed. Although the distribution was technically only a deposit, there was no expectation that the states would ever be called upon to pay their apportionments.

From 1866 until 1894 there was a surplus in every year except 1874. During the first part of this period it was advantageously used in operations concerned with refunding the debt. One error, however, was made in extending the maturity of the new bonds over too long a period, so that by 1880 there was little indebtedness available for immediate liquidation. Bonds had a high credit and sold at a premium. There was opposition to settling public indebtedness under conditions which meant a handsome profit to banks which held large blocks of bonds: but, forced by the enormous accumulation of public funds in government vaults, Secretary Fairchild in Cleveland's administration (1885–1889) resorted to this solution. In later years this method has been freely followed, and new legislation has given the Treasury greater liberty in depositing surplus funds with banks.

See DEPOSIT OF PUBLIC FUNDS; DEBT, PUBLIC, ADMINISTRATION OF; FINANCIAL STATISTICS; SUBTREASURY SYSTEM.

References: E. G. Bourne, *Hist. of the Surplus Revenue of 1837* (1885), bibliography; D. R. Dewey, *Financial Hist. of the U. S.* (3d ed., 1907), 217–222, 494; H. C. Adams, *Public Debts* (1895), 80–83.

DAVIS R. DEWEY.

REVISED STATUTES. A periodical compilation of the laws in force either in a state or in the United States. The term "revised statutes" is used more generally to designate such a compilation of laws in force, although in some states the terms "compiled statutes" or "compiled laws" are used. In a few states a compilation of laws in force is improperly termed a "code" (*see* CODIFICATION). A "code," to confine the term to its more proper meaning, is a systematic statement of the law, intended to include all or practically all legal rules concerning the subject treated. Revised statutes, on the other hand, constitute simply a revision or systematization of the statute laws already in force in the territory to which they apply. Where an edition of revised statutes is prepared purely by private hands, it ordinarily constitutes simply an arrangement under proper headings of the laws which are in force. That is, the work is simply one of

compilation, excluding laws no longer in force. Where a revision is undertaken under official supervision, it is not unusual to authorize the person or body doing the work to restate the law in simpler form, and to eliminate conflicts; it is less usual for the legislature to authorize the revisers actually to change the substance of the law; such changes do not, of course, become effective until after they have received the approval of the legislative bodies. Properly, perhaps, the term "revised statutes" should be confined to the official restatement and simplification of the statute law in force, but the term is in practice applied also to unofficial or official compilations which do no more than simply to collect the law in force without any attempt at systematic restatement and simplification. *See* STATUTES, STATE. *References:* J. B. Sanborn, "Problem of Statutory Revision" in *Am. Pol. Sci. Assoc., Proceedings*, IV (1907), 113-127. W. F. D.

REVOLUTION, AMERICAN, CAUSES OF

Differences: Social.—The causes of the American Revolution may be divided into several classes. There were those which were due to certain fundamental conditions, the distance of the mother country from the colonies, and the age and conservatism of England set over against the youth and radicalism of America. Then there were certain fundamental facts in the whole historical growth of the two countries which had left their institutions radically unlike though in superficial view similar. Finally, a series of untoward events interpreted by the people of England and America, each in the light of their own environment and conditions, in a very dissimilar way, led to complete misunderstanding and separation. A comparison of conditions in the two countries just prior to the events which led immediately to war will show many of the causes which to this day render it hard for an old and conservative community to understand a frontier people as were the Americans of the eighteenth century. The refinement of English society exhibited in the finished eloquence of Pitt, the deep and scholarly political philosophy of Burke, and the polished letters of Walpole contrasted sharply with the ruder frontier society of America, typified in the somewhat glorified stump oratory of Patrick Henry, the farmer philosophy of Thomas Jefferson, and the practical wisdom of Benjamin Franklin, expressed in a simple and clear, but far from elegant or literary style. Art galleries, libraries, museums, every creation of civilization abounded in England, while in America little had been done in the direction of culture and refinement except to clear the forest from part of the eastern edge of the continent. In

England there were vast accumulations of wealth, but in America twenty to fifty thousand pounds was rarely amassed, and no fortune was over three hundred thousand pounds. Yet in America few were poverty stricken, though many were impecunious. Even the language of the two countries differed, for, while English speech was dominant in America, many causes had been at work to make strong dialectic peculiarities there which English travellers did not fail to note and ridicule. Moreover England was all English, or so overwhelmingly so that foreign immigrants did not affect her political thought. America, on the other hand, was sprinkled with various nationalities—Germans, Dutch, French, Swiss, Swedes and Scotch-Irish—in such numbers that in certain localities not even the dominance of the English tongue was secure. And finally the whole social fabric of England was quite dissimilar to that of America. In England, the majority of people lived in towns, in America they lived on farms, often deep in the forest. Town life in England emphasized the community and made men pliant to an imperial régime; the forest farm in America made the dweller there individualistic, made him love self-rule and local self-government.

Differences: Political.—This marked dissimilarity between Englishmen and Americans extended to their dominant political character. The colonial policy of English kings had stocked America with dissenters and radicals gathered from all lands. As Cotton Mather wrote: "There never was a generation that did so perfectly shake off the dust of Babylon both as to ecclesiastical and civil constitution as the first generation of Christians that came

into this land for the gospel's sake." The Americans were not only Protestants, but Protestants against Protestantism itself, dissenters from the Church of England, Puritans, Congregationalists, Presbyterians, Baptists and Quakers. Theirs was the "dissidence of dissent," as Burke expressed it. For twenty years before the actual outbreak of the Revolution, the dissenting preachers of New England disseminated among the people of their congregations liberal political doctrines culled from Milton, Locke, Sydney and even from Burlamaqui and Montesquieu. These sermons filled men's minds with democratic ideas and a love of free institutions which was sure to make them restive under an arbitrary government or even under one having less liberal political principles.

This transformed character of Englishmen who had settled in America asserted itself most vigorously in the colonies which were sheltered behind charters. These instruments had been drawn in a very liberal spirit in the early day because of a desire to attract colonists, and they were ill suited to the ends of a strong central administration. They "amount," declared Governor Bernard, "to an alienation of the dominions of Great Britain, and are, in effect, acts dismembering the British Empire." Another, with pardonable exaggeration, asserted that Rhode Island was no more a part of the British Empire than the Bahamas, when they were inhabited by buccaneers. Through their representatives in the colonial legislatures the colonists kept up a running fight with the royal agents, the governors, and, by means of withholding salaries and refusing necessary taxation the colonial assemblies kept the upper hand. One royal governor wrote: "Meanwhile I was left to begg my daily bread from a hard hearted assembly here . . ." There were attempts by the British Government to have colonial money paid out on a warrant by the governor and the subservient council which he had appointed. But that scheme proved unworkable, for the power that grants the taxes is bound sooner or later to control their expenditure. By the middle of the eighteenth century the whole center of gravity of the colonial administration had moved from England to America. The assemblies had usurped the functions of governor and council, and the chief law officers had become dependent upon the assemblies for their salaries. In Massachusetts there was a thirty years quarrel between the General Court and the royal governors over the governor's salary; the Court would grant only from year to year. A similar struggle in New York and South Carolina ended likewise. The battle thus waged about the executive was also fought for control of the judiciary. There were significant struggles in New York and New Jersey.

Conditions after 1763.—This constant bickering between the colonial assemblies and the

royal authorities led many to believe at an early day that the colonists were kept from a struggle for independence only by their fear of the French in Canada and the Mississippi Valley. When, by the Treaty of Paris, 1763, France lost both of those regions, the colonists no doubt felt thereafter less dependence upon the British for protection. Moreover, the men of different colonies had fought together against the French, and some of the particularism which had made united action impossible at an earlier time had now vanished. Plans looking toward confederation now made headway, for both Whigs and Tories in colonial politics could in this matter agree for different reasons. The Tory favored the idea, because the plan seemed to further the schemes of the Crown for abating local power. The Whig approved, because thereby the colonies might be strengthened in a military way. The feeling that union was possible made men bolder in resisting what they regarded as the oppression of the British Government.

It was when the historical past and the existing conditions had made the British and the American people quite incompatible and unable to see political questions in the same way, that England met the greatest problem in her colonial history—the problem of effective imperial organization. Moreover, English society was not in condition to call forth its best talent for great and statesmanlike action. The moral tone among the ruling classes was very low. Government positions were in the hands of placemen. Bribes were common at elections, and parliamentary votes were notoriously purchasable. Corruption was rampant. The men who might have preserved the empire were out of power. Therefore it was small men who met the great problem, should there be a British empire ruled by Parliament in all its parts, whether in England or in America? Or should Parliament rule in the British Isles, and the colonial assemblies in the American continent, with only a federal bond to unite them?

The Mercantile System.—One great obstacle to the federal solution was the long established mercantile system of colonial control—the protective commercial policy which England had from the first applied to her American possessions. Colonies existed, according to the mercantile theory, for the benefit of the mother country (*see ECONOMIC THEORY*). To secure this end restrictions were placed upon American trade and industries. This restrictive system found expression in three kinds of laws: (1) the acts of navigation (*see NAVIGATION ACTS*) which protected English shipping against foreign competitors; (2) the acts of trade which secured a monopoly of the colonial commerce for English merchants; (3) the acts giving to English manufacturers a monopoly of the colonial markets. Though these laws must ultimately set up a real opposition of

interests between America and England, they did not for a long time hurt the colonies seriously, because, as a new country largely devoted to farming, America was not a rival of industrial and commercial England. Not until the Molasses Act, 1733, was there any serious attack on American interests, and even then the collusion of the custom house officers with American shippers made fraudulent clearances and smuggling an antidote to the evil. When in 1761, however, efforts were made to enforce the acts by a resort to Writs of Assistance (*see*) their issuance was resisted by James Otis (*see*) in an impassioned appeal which met almost universal approval in America. The popularity of Otis's argument showed what America believed, and pointed very plainly the path of wise statesmanship.

Parliamentary Acts.—Nevertheless, in 1763, when Indian uprisings made a force of soldiers necessary in Canada, the British minister, Grenville, lowered the sugar and molasses duties and set on foot measures to enforce the collection. One thing necessary was the creation of American executive officers who should be independent of the colonial assemblies. This and a defensive system for the colonies was to be supported by taxation imposed by Parliament on the colonists. As a further means to accomplish this, Grenville proposed and secured the passage of a Stamp Act (*see* STAMP ACT AGITATION). At once this was opposed in America on the ground that there should be no taxation without representation. In the controversy that followed it appeared that the dominant theory of representation in the two countries was radically different. The Stamp Act was repealed, but Parliament still held, in a Declaratory Act, to the principle that it had the right to tax.

The next effort to enforce that principle was made in 1767 by Townshend who induced Parliament to lay a tax upon certain imported articles, and to provide efficient means for collection at the customs houses. This Townshend Act (*see*) again inflamed America, and troops—quite an inadequate force—were sent to America. Threats were made to remove to England persons charged in America with treason, thus violating another dearly loved priv-

ilege of an Englishman—the right of trial by a jury of his neighbors. In Boston the troops had trouble with the populace, and the so-called "Boston Massacre" followed and further embittered the relations. The Townsend Act was repealed, 1770, in answer to the plea of British merchants with whom the Americans would not trade, but it was followed by the Tea Act, a small tax, but one which still violated the principle of "no taxation without representation." In Boston there was violent resistance, the "Boston Tea Party," (*see*) and Parliament to punish the people there passed the "Five Intolerable Acts." As a result of sympathy for Boston the first Continental Congress (*see*) was called wherein all America agreed to buy no more British goods. The British troops sent to Boston were soon drawn into armed conflict with the Patriots at Lexington and Concord, and the war began which was to end in American independence.

See ASSOCIATION; COMMITTEES OF CORRESPONDENCE; DECLARATION OF INDEPENDENCE; LOYALISTS; REVOLUTION, AMERICAN, SIGNIFICANCE OF; WHIGS.

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C. H. VAN TYNE.

REVOLUTION, AMERICAN, SIGNIFICANCE OF

Division of the English Empire.—At first sight it would appear unnecessary to dwell on the significance of a movement which resulted in establishing a new member of the family of nations—and that, too, a state which has become one of the great, strong, wealthy nations of the world; the significance is too apparent to need comment. The mere fact that there are now two great English speaking na-

tions where there might have been one English empire is, of course, a fact of supreme importance. The student of politics is naturally interested in the results of mere separation, and he is tempted to speculate—if only fruitlessly to speculate—on what might have been, had England succeeded in maintaining an undivided empire. And yet there are, of course, other aspects; and of chiefest interest are the questions

as to what were the issues involved, what were the principles, and what were the results in the establishment of institutions and working theories of government.

Important Meanings.—The Revolution may be considered, first, as an event in the general history of colonization, an event from which lessons have been continually drawn vitally affecting England's ideas concerning the management and control of colonies; second, as an event of the greatest importance in the general history of empire building, for England's task by 1750 was more than to manage colonies in the ordinary sense—it involved the appreciation of the fact that she had an empire, and she actually blindly sought a principle of organization; third, as an event which ended in the establishment of an empire on this side of the water, an empire which, though built in part out of the old one, was in reality a new empire; fourth, as an event marking the rise of popular ideas of government and of popular control over government; fifth, as an event marking the establishment in institutions of philosophical principles and ideas which were in some ways a product of English history but which had gathered strength in America and to which the Revolution gave new and more tangible meaning.

Breakdown of Old Colonial System.—(1) The Revolution, then, was of significance because it broke down or helped to break down the old colonial system; to overthrow the idea that colonies existed for the benefit of the mother country. England has had, since 1783, many turns and changes in her colonial policy; but for a century or more she has gone on the principle that colonies, made up of Englishmen across the sea, to a considerable degree, must work out their own destiny. She has definitely accepted the idea that to tax the colonies even for their own defence or for the protection of the empire is unwise or improper. The American Revolution, therefore, distinctly ushered in the modern theory and practice of colonization. It may be said to have marked, also, the beginning of the break up of the colonial systems which the other countries of Europe had established. It is true, this will not hold of France for she lost her colonies in 1763. There can be no doubt, however, that the example of the United States was influential in the case of the colonies in Central and South America which were lost to Spain and Portugal in the early part of the nineteenth century.

Problem of Imperial Order.—(2) At the outbreak of the French and Indian War, England—it is scarcely an exaggeration to say—had no colonial system. The colonies of the continent of North America were growing rapidly and were already powerful and moderately rich. But not only did England have no proper method of controlling and guiding them, there was, also, no generally accepted principle of organi-

zation. Possibly before the practical test actually came in the Stamp Act, the colonists might have agreed to the principle that Parliament was sovereign; in other words, that the empire was organized on the theory that all power was gathered at the center and that the outlying parts of the empire managed their affairs always subject to the ultimate right of Parliament to interfere and to legislate on any subject it chose to legislate upon. But as a matter of fact, practice did not bear out this theory; the colonists had managed their internal concerns for a century and more, largely without let or hindrance—and this was notably true of the corporate colonies. The French and Indian War brought home to England the necessity of finding a method of holding and using the resources of the empire for the defence of the empire, and thus disclosed the need of a principle of organization. Now if England had had, in reality, a simple empire, an empire based on the principle of centralized power, there might have been difficulties in collecting taxes from the outlying parts of the empire, but there could not have been legal opposition or serious pretense of legal opposition to the powers at Westminster. But the fact was that England had, in reality, been developing a composite empire and had allowed or encouraged the growth of political institutions in the colonies. When, therefore, the question of contribution or taxation arose this complex or composite make-up could not be ignored.

I have said that with the Stamp Act arose the question of imperial organization. It would not be well to say that English statesmen stated the question in these general abstract terms. On the contrary they commonly contented themselves with asserting that the colonies should pay, at least in part, for their own defence and that they must acknowledge the right of Parliament to tax them. But as the days went by they emphasized not so much the fact that the colonies must contribute as the need of a frank recognition of Parliament's ultimate right to make them contribute, and thus the contest became one of theory. As a rule the parliamentarian went the whole figure and announced that the colonies must admit the supremacy, the sovereignty of Parliament. Now this was a theory of imperial order and the theory was that the empire was unitary, not composite; all power was gathered at the center, all power in the parts was exercised only by sufferance. Thus in facing the critical question of all empires, the contribution of the outlying parts, England sought to ignore what she had already done, and instead of recognizing that she had built up a composite system, she insisted on the principle of centralization. We need not wonder that she could not see the facts; for the task was full of trouble. And yet if English statesmen had been able to see and talk in terms of im-

perial order rather than of insular control, they would have entertained at least the elements of the problem. It was really England's task to try to work out the principle of federalism; but she could not. Most of her statesmen could see nothing but an English Parliament with world-wide powers. A few men, Burke and Pownall, for example, grasped the problem; but most Englishmen failed to see the theory of federalism as the basis of far-reaching dominion.

Federalism.—(3) The Americans, as a rule did not grasp the problem. They too worked on the principles of individual liberty rather than with recognition of the theory of imperial federal order. Of course to most of them it was plain that the question was concerning the respective rights of the colonies and the mother country; but the assertion of individual as well as colonial right was so strong that few saw the possibility of a system which would at once assure local liberty and establish imperial order and safety.

After the Declaration of Independence, the Americans were confronted with practically the same problem as before. How was the American empire to be organized? The Articles of Confederation failed to give to Congress some of the powers which Parliament had exercised in the old régime—notably the power to regulate trade—and even the power to manage external affairs was inadequate because Congress could not be sure that treaties would be respected by the individual states. But with America as with England, the central problem was raising money. The system of requisitions which was practically the same that England had found unsatisfactory in dealing with her colonies, failed when it was applied in the Confederation. Only when the whole union was in dire straits were radical steps taken: the United States was formed as a federal union, and the problem of federalism was solved. A composite empire recognized by law was formed in the Constitution of the United States. The adoption of the Federal Constitution was the end of the American Revolution.

Popular Government.—(4) This problem of discovering the principle of federalism, of union and strength on the one hand and local autonomy on the other, gives unity to the whole work of the generation from 1765 to 1789; but to the men of the time this was not the problem they had consciously in mind. The right of representation and of self-government was to them rather an individual right than a principle to be recognized in the structure of the empire. They were interested in the assertion of rights of the individual against government; and thus the Revolution was an upheaval, a rising among Englishmen to maintain what they claimed as a birthright. England, it is true, was charged with denying the rights of the colonies; but she was also

persistently charged with denying the fundamental rights of men and of Englishmen in particular. Thus the Revolution appeared to be, and in part was, a struggle against government. It naturally took its place in men's minds with other contests for individual liberty. The rights of the people and of individual men were the things that were talked of and emphasized.

Now it is a very important fact that the American Revolution—if we mean by that the war—was ushered in by a decade of discussion which touched the fundamentals of government, the state and society. This discussion had a long and far-reaching effect on American politics and American law. To the parliamentarian or British pamphleteer who asserted that the English government was possessed of all power, the American retorted that no government was possessed of all power but was restricted by the plain purposes of its creation, the protection of the life, liberty and property of the citizen; he insisted that government was not possessed of inherent power inherited from itself, but rested on the consent of the governed; that is to say on their compact or agreement. Thus there came clearly forward the idea that government is not superimposed, but comes from the act of the governed. And there came forward the fundamental American idea that there are and must be fixed limits on free government—the foundation of much of American constitutional theory and practice.

The State and the Government.—(5) Just as the end of the Revolution and its fullest significance as an event in empire building is seen in the adoption of the American Constitution, so the end of the Revolution as a contest for the theory concerning the origin of government is seen in the constitutional conventions which drew up the state constitutions. These conventions carried out the principle that government does come from the people and that ultimate power rests in the people. Many men of the time believed that they were acting on the principles of the philosophers of the preceding century and that the state itself was organized by the agreement and the coalescence of individuals. Government was henceforward a servant not a master; men were henceforward sovereigns not subjects; individual rights were henceforward inherent not the gift of government. If these assertions seem fanciful to us now, they will not appear fanciful historical statements to the student of American politics examining the theories of the Revolution and of the generation that followed.

See COLONIZATION; CONSTITUTIONAL CONVENTION; NATURAL RIGHTS; POPULAR GOVERNMENT; SOCIAL COMPACT THEORY.

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ANDREW C. McLAUGHLIN.

REVOLUTION, RIGHT OF. In a strictly legal sense, the right of revolution never exists, since no one can have a lawful right to resist the legally established order of things. But the moral right of the people as a whole, though perhaps not as individuals, to resist political oppression has always had advocates among political writers, and in practice the right has been many times resorted to in modern times. Among the writers of the sixteenth and seventeenth centuries who defended the right of resistance to established authority may be mentioned Hubert Languet, Johannes Althusius, George Buchanan and John Locke, though the doctrine was opposed by Grotius, Hobbes, Hume and others. The mediæval and early modern advocates of resistance based their arguments on the theory that the state is founded on compact and that the violation of the terms of the compact by kings or legislatures released the people from further obedience. "Whenever," said Locke, "legislatures endeavor to take away and destroy the property of the people, and reduce them to slavery, they forfeit the power which was put in their hands for different purposes and put themselves into a state of war with the people, who are thereupon absolved from any further obedience and may resume their original liberty" (*Two Treatises of Government*, § 222). . . . Those who violate public trusts confided to them and prostitute the powers conferred upon them by the people for their own good, are themselves rebels and may be resisted in the same way that honest man may oppose robbers and pirates. The end of government, he said, is the good of mankind and when that end is perverted for contrary purposes, resistance becomes a right and a duty.

The celebrated "Agreement of the People" framed in 1647 as a constitution for the English commonwealth, expressly recognized the right of resistance and the convention of 1688 justified the revolution which it inaugurated, by the action of James II in "endeavoring to subvert the constitution by breaking the original contract between the king and the people."

The right of revolution was also defended by many American statesmen in their writings and speeches at the time of the breach with England, notably by Otis, Samuel Adams, Dickinson, Paine and Jefferson. Their doctrine found place in the Declaration of Independence which declared that governments derive their just power from the consent of the governed and that whenever a long train of abuses and

usurpations evinces a design to reduce mankind to a state of despotism, it is their right and duty to throw off such government and to provide new safeguards for their future security. Jefferson, the author of the Declaration, later advocated revolution as a wholesome remedy for political ills. "God forbid," he said, "that we should ever be twenty years without a rebellion: the tree of liberty must be refreshed from time to time with the blood of patriots and tyrants" (*Works*, Vol. IV, 467, 1789).

The right of revolution has been expressly sanctioned in many constitutions both in France and in America. The French constitution of 1793 (article 35), for example, declared that "when the government violates the rights of the people, insurrection is for the people and for each portion of the people, the most sacred of rights and the most indispensable of duties." The constitution of New Hampshire contains an assertion of the same right in language even more emphatic. "The doctrine of non-resistance against arbitrary power and oppression," it declares, "is absurd, slavish and destructive of the good and happiness of mankind."

From the standpoint of the objects to be attained revolutions are of three kinds: (1) those which are anarchical in character or which seek to subvert the existing government without establishing another in its stead; (2) those which are directed against a particular person, law or policy; (3) those which are intended to bring about a change in the constitution of the existing government. The first is never justifiable. The second and third may be, depending upon the particular circumstances. Safeguards against revolutions of the last mentioned character should be provided through easy and orderly modes of amending the constitution since excessive rigidity conduces to revolutionary changes. It is a common rule of public law that when an existing government has been overthrown and a revolutionary one established in its place, the adherents of the latter government in a war against the displaced government do not incur the penalties of treason and, under certain limitations, the acts and obligations of the latter government will be respected by the former in case it should be restored (*Thorrington vs. Smith*, 8 Wallace, 1).

See FREEDOM OF SPEECH AND OF THE PRESS; LIBERTY: SOCIAL COMPACT THEORY.

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JAMES W. GARNER.

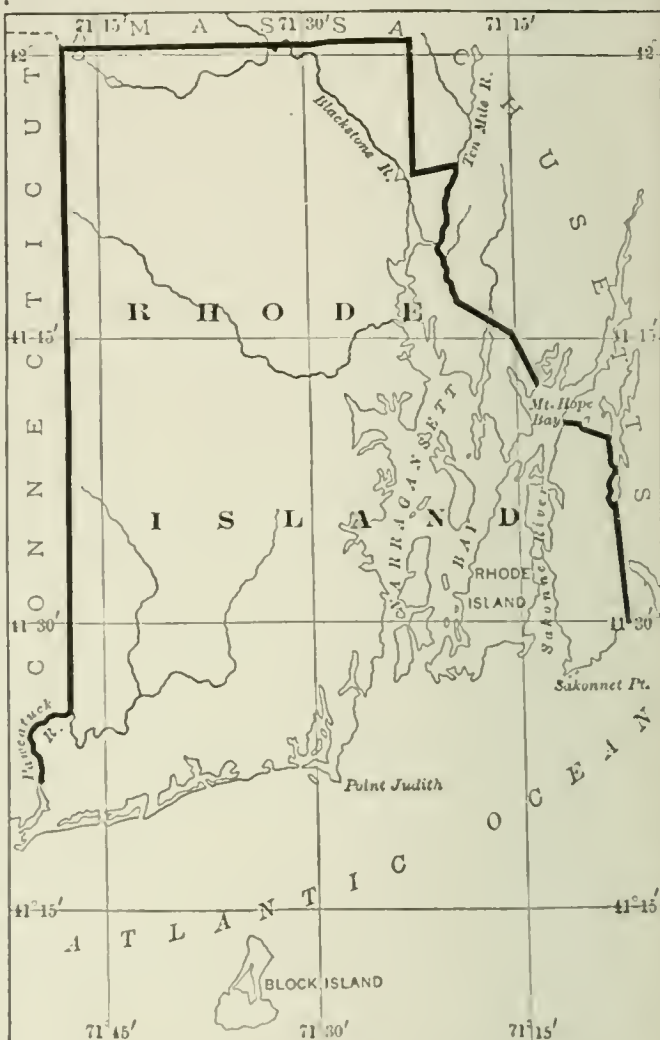
REVOLUTIONARY WAR. See WARS OF THE UNITED STATES.

RHODE ISLAND AND PROVIDENCE PLANTATIONS. Early History.—Rhode Island was settled at two points—Mooshassuc, later called Providence, and the island of Aquidneck, later called Rhode Island. The Providence settlement was effected by Roger Williams in the summer of 1636, and that of Aquidneck by William Coddington on March 24, 1638, both settlements being upon tracts of land given by the Narragansett Indians. At Providence, government was first by “masters of families” who dispatched business by “mutual consent;” but young and unmarried men having been admitted to the settlement, it was stipulated that they should be subject “in active and passive obedience” to the orders of the major part of the “present inhabitants, masters of families incorporated into a town, and such others as they should admit, only in civil things.” On October 8, 1638, Williams executed to twelve men a deed constituting the twelve, along with himself, a “fellowship” in the Providence grant.

Upon Aquidneck it was at Portsmouth that government was established first. It consisted of a judge (Coddington) and three elders. Coddington, however, soon becoming dissatisfied, withdrew with his chief supporter, John Clarke, and on May 1, 1639, founded Newport. On March 12, 1640, Portsmouth and Newport became united under one government for the whole of Aquidneck—a government styling itself “a Democracy” under the control of the “Body of Freemen orderly assembled, or the major part of them”; and no one was to be “accounted a delinquent for Doctrine,” who kept the civil peace.

In 1642 the Aquidneck government decided to send Roger Williams to England to obtain a royal charter for the Island. Finding the King (Charles I) dethroned, Williams obtained, on March 14, 1644, a patent from the Long Parliament. By the terms of the instrument, the inhabitants of the Narragansett settlements—Providence as well as Aquidneck—were empowered “to govern and rule themselves by such a form of civil government as by voluntary consent of all, or the greater part of them, they [should] find most serviceable; the laws . . . of the said plantation to be conformable to the laws of England, so far as the nature and constitution of the place [would] admit.” Providence Plantations (Providence, Portsmouth, Newport, and Warwick) was formally organized on May 19, 1647, at Portsmouth. Legislative power was vested in the freeholders, and was to be exercised by a committee of six from each town, called the general court [assembly]. Executive power was vested in the presiding officer of the general court, called the president, and four assistants—one from each town; and the president and assistants together constituted a general court of trials, the decisions of which were subject to review by the general court.

On July 8, 1663, after the Restoration in England, a royal charter for the Narragansett settlements was obtained by John Clarke. The name Providence Plantations was changed to Rhode Island and Providence Plantations. The president was superseded by a governor and deputy-governor. The number of assistants was increased from four to ten. The general assembly was made to consist of the governor (or deputy-governor), the assistants, and a body of deputies to be chosen—six from Newport, four each from Providence, Portsmouth,



BOUNDARIES OF THE STATE OF RHODE ISLAND

and Warwick, and two each from all other towns. The court of trials remained unchanged, its decisions being still subject to review by the general assembly, and the charter provided: “Noe person within the sayd Colony is to be in any wise molested, punished, disquieted or called in question for any differences in opinion in matters of religion, and doe not actually disturbe the civil peace.”

Later Constitutional Conditions.—So satisfactory was the charter of 1663, that for one hundred and eighty years Rhode Island found it unnecessary to frame for itself any other fundamental law. In February, 1778, the state adopted the Articles of Confederation submitted by Congress in November, 1777; but adoption of the Federal Constitution was long delayed. The Federal Convention met in May,

1787, in Philadelphia, but Rhode Island sent no delegate, and on the submission of the Constitution for ratification, the state referred it to the towns, and by them ratification was refused. In the spring of 1788 the general assembly was repeatedly petitioned to call a ratification convention, but the proposal was as repeatedly (some seven times) rejected. Finally Congress passed a tariff act in which Rhode Island was treated as a foreign country, and on January 17, 1790, the general assembly called a convention which on May 29 ratified the Constitution by a majority of two votes.

In Rhode Island constitutional history the two most notable facts are the case of *Trevett vs. Weeden* (*see*), decided in 1786, and the Dorr Rebellion (*see*) of 1842. The rebellion failed; Dorr was convicted of treason against the state and imprisoned (*see* SUFFRAGE PARTY).

Constitution of 1842.—A failure in itself, the Dorr Rebellion compelled the general assembly in November, 1842, to submit to the people a constitution to replace the charter of 1663, and this constitution was adopted and is yet in force. Under the charter the right to vote had been restricted to adult males who were owners of \$134.00 worth of land, and to the eldest sons of such owners. Under the constitution the right to vote was extended to adult males who were native Americans, excepting that only the possessors of \$134.00 worth of land might vote on questions of taxation. Under the charter the upper house of the general assembly consisted of ten members chosen at large. Under the constitution the upper house (senate) was made to consist of one member for each town. Under the charter representation in the lower house had been six from Newport; four each from Providence, Portsmouth, and Warwick; and two from each of the other towns. Under the constitution representation was based on population, but membership of the house might never exceed a total of seventy-two, and to no single town was there to be accorded membership in excess of one-sixth of the total. Under the charter the supreme court was secondary to the legislature. Under the constitution the judges (though elected by the general assembly in joint session) might hold office during good behavior and at a fixed minimum remuneration. Furthermore, in 1905 the supreme court was made distinctively a court of appeals, and there was created a superior court invested with equity powers, and with jurisdiction in civil and criminal cases involving amounts exceeding \$500, or imprisonment exceeding one year. There were created also as subordinate to the superior court twelve district courts.

In one respect the constitution of 1842 is less liberal than the charter and laws which it superseded. It can only be amended by the

vote of a three-fifths majority of the electors. In consequence it was not till 1888 that an amendment was secured enfranchising naturalized citizens. In 1886 an amendment was carried prohibiting the manufacture and sale of intoxicating liquors to be used as a beverage, but it was annulled in 1889. In 1909 the provision limiting the membership of the lower house of the general assembly to seventy-two, whereof no single town might be accorded more than one-sixth, was so amended that the lower house must consist of not to exceed one hundred, whereof no single town or city may be accorded more than one-fourth. The same year the governor, who by the constitution of 1842 was president of the senate with no power of veto upon legislation, was given the veto power subject to be overridden by a three-fifths majority in each house.

The distinctive features of the constitution of 1842 (which, as already observed, is the constitution yet in force in Rhode Island) are: (1) that only the possessors of \$134.00 worth of land may vote on questions of taxation; (2) that the upper house, or senate, is composed of one member from each town regardless of population. As a result of the composition of the senate, Rhode Island is much in the hands of a political machine. Many of the agricultural towns possess but a small population, and in several of them the population is declining. Three towns, indeed, have today less population than they had in 1790. Through the vote of towns of this character (a vote easily controlled), the machine has found its opportunity. The constitutional amendment of 1909, which gave to the city of Providence a possible one-fourth instead of a possible one-sixth of the total membership of the house, is considered a step toward reform.

Rhode Island local government is in form that of the New England town, but it is less firmly knitted. Generated under no ecclesiastical or educational system, it lacks common interests, common action, and civic pride. In certain of the towns probate functions are performed by the town council, and new towns are formed by purely arbitrary process as in the West.

In national elections the state is usually Republican by majorities ranging from five to fifteen thousand, but in 1912 the Democratic candidate received the five electoral votes. In state elections it is occasionally Democratic. In 1790 the population was 68,825; in 1850 it was 147,545; and in 1910 it was 512,610.

See CONSTITUTIONS, STATE, CHARACTERISTICS OF; STATE GOVERNMENTS, CHARACTERISTICS OF.

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Providence Plantations (E. Field, Ed., 1902), *Rhode Island, a Study in Separatism* (1905); F. N. Thorpe, *Federal and State Constitutions* (1909), VI, 3205-3240. IRVING B. RICHMAN.

RIDER. A rider is a bill, order or resolution which is attached to some other bill or resolution on an essentially different subject. Riders are most frequently attached as nominal amendments to appropriation bills which must be passed. They are designed to force some obnoxious measure upon the other legislative house, or upon the executive, especially during the closing days of a session. In the national government the rider cannot be defeated without defeating the measure to which it is attached. In most of the states riders to bills are forbidden by the almost universal constitutional provision that no bill shall include more than the one subject, which shall be stated in the title, or by the right of the governor in a majority of the states to veto particular items in appropriation bills. Riders to general appropriation bills are forbidden by the rules of the House of Representatives, but the rule applies only to general appropriation bills, and does not forbid the attachment of riders which create new laws. In addition the rule may be suspended by a two-thirds vote. See **BILLS**; **RULES OF CONGRESS**; **RULES OF LEGISLATIVE BODIES**. Reference: *Rules of the House of Reps.* (1910), § 815. R. L. A.

RIDING. A division of some shires in England, as in Yorkshire. At the first organization of county government in the province of New York, there were created three ridings, each with the organization of a county. See **RURAL DIVISIONS**, **MINOR**. Reference: G. H. Howard, *Local Const. History* (1889), I. J. A. F.

RIGHT OF DEPOSIT. The treaty signed in Madrid, October 27, 1795, gave citizens of the United States the long desired privilege of depositing their merchandise at the port of New Orleans and of exporting it thence without paying duties. Smuggling seems to have been practiced by some of the Americans who brought down boat cargoes to exchange with seagoing ships; and as the privilege was not perpetual, in 1802 the Spanish intendant revoked it. Congress declared "an unalterable determination to maintain . . . the rights of navigation and commerce through the River Mississippi," and Jefferson was eager for redress, even if war or an English alliance were involved; and he promptly began to negotiate with Napoleon for the purchase of New Orleans. The Louisiana Purchase of 1803 ended the deposit controversy. See **LOUISIANA ANNEXATION**; **NAVIGATION OF INTERNATIONAL RIVERS**; **SPAIN, DIPLOMATIC RELATIONS WITH**. References: H. Adams, *Hist. of the U. S. 1801-1817* (1885), I, 349; J. S. Bassett, *Fed-*

eralist System (1906), 70, 80-83; G. Tucker, *Life of Thomas Jefferson* (1837), II, 131, 133-136; J. D. Richardson, *Messages and Papers of the Presidents* (1899), I, 251, 257, 358; C. L. Rives, "Spain and the U. S. in 1795" in *Am. Hist. Review*, IV (1895), 68-79; *Am. State Papers, Foreign* (1832), I, 53, 538, 541, 549. C. G. C.

RIGHT OF SEARCH. See **RIGHT OF VISIT**.

RIGHT OF VISIT. The words "visit" and "search" are usually coupled; and "visit and search" is regarded as a single act, "This is called indifferently the right of search or the right of visit and search." The right of visit and search of a neutral private vessel in time of war is not merely a belligerent right exercised to determine the presence of contraband or guilt in regard to blockade; but is still more essential in order that the belligerent may be convinced as to the nature and character of the vessel. The belligerent has a right to learn for himself whether the vessel flying a neutral flag is a properly documented neutral vessel. The right of visit and search should be exercised in accord with treaty provisions if such exist. The general rules are that after causing a vessel to lie to, it may be visited by an officer and not more than two men, who going on board unarmed may examine the vessel's papers and inquire into any suspicious circumstances in regard to the conduct or character of the vessel or of those on board. In case of doubt as to its bona fide neutrality, the vessel may be sent in to a prize court for adjudication. See **BLOCKADE**; **IMPRESSMENT**; **MARITIME WAR**; **NEUTRAL TRADE**. References: *U. S. Instructions for Blockading Vessels and Cruisers* (1898); *U. S. Foreign Relations, 1898*, 781; Henry Wheaton, *Inquiry into the Validity of the British Claim* (1858).

G. G. W.

RIGHT TO LABOR. This phrase is popularly used to express the sentiment that any willing man ought to be able to find a job. The "right to labor" recognized in law, however, is limited by the equal right of employers to refuse to give work to any man. See **CONTRACT**; **LABOR ORGANIZATIONS**; **OPEN AND CLOSED SHOP**; **WAGES, REGULATION OF**. Reference: "Right to Work" (anonymous) in *Edinburgh Review*, CCXIII (1911), 180-99.

J. R. C.

RIGHTS AND REMEDIES. Interests.—The legal system attains its ends by recognizing and securing certain interests, social, public and private. Social interests are secured: (1) by imposing absolute duties defined by criminal law; (2) by recognition of private interests, secured by private rights; (3) by recognition of certain interests as public, i. e., as interests of the state; (4) by denying legal protection

in certain cases to interests ordinarily secured, because of some countervailing social interest. Public interests are secured: (1) by attributing rights to the state or to some public aggregate on the analogy of private rights; (2) by attributing rights to the state as guardian of general interests—at common law by powers recognized in the Crown as *parens patriae*. The former are vindicated by private actions by or on behalf of the state or public corporations or, in America, by suits of taxpayers to prevent waste of public funds. The latter are vindicated by prerogative writs, by information in equity, or by criminal prosecutions. Private interests are secured by rights conferred upon individuals and vindicated: (1) by private actions; (2) by affirmative defences in such actions where it becomes necessary to weigh conflicting interests. In general, the interests secured are personality, that is, the individual physical and spiritual existence, and substance, that is, the individual economic existence. The different forms of these interests which it is held the law should recognize and secure are called “natural rights.” Those which are or have been recognized by law are: (1) body and life, the individual physical existence; (2) the family, the expanded individual existence; (3) honor or reputation, the social existence; (4) free exercise of volition; (5) freedom of opinion, the spiritual existence; (6) property, in its widest sense, including all that makes up one’s substance. Legal systems differ much in the extent and manner of recognizing and securing these interests.

Rights.—To secure the foregoing interests, law imposes duties and confers rights. So far as practicable, the law today makes moral duties legal duties also. But there are limits to effective legal action in this respect. Hence duties may be moral or legal or both. There is a moral duty when one is bound to act or to refrain because of some interest recognized and sanctioned by the moral sentiment of the community. There is a legal duty when one is bound to act or to refrain because of some interest which the law endeavors to secure through judicial proceedings. Legal duties are either absolute or relative. Absolute duties are imposed to secure social or public interests, without any corresponding public or private right, and, for the most part, are enforced by the criminal law, although the absolute duties incident to a public calling are enforced by prerogative writs or by private actions. The duties enforced on the civil side of the courts are correlative to legal rights, public or private. In other words, the law secures most public interests and all private interests by defining certain capacities in persons of influencing the actions of others and imposing corresponding duties on those subjected to such influence. These capacities are given effect by protecting those upon whom they are conferred in the exercise of them, by enforcing the cor-

responding duty specifically, or by some form of redress when such enforcement is impossible or inexpedient. Capacities of influencing the conduct of others because of some interest which requires others to act or not to act in a particular way are called rights; moral rights if they have behind them only the moral sentiment of the community, legal rights if they are recognized by law so that the force of the state may be invoked through the courts in order to make them effective, natural rights when we think they ought to be so recognized and made effective.

Scheme of Legal Rights.—Legal rights fall into two well-defined classes. One class exists generally against everyone. Rights of this class have as correlatives general duties, resting upon all persons, not to infringe the interests which they are designed to secure. These rights are called rights *in rem*. Another class exists and is available only against one or more defined individuals, and has, as correlatives, duties of definite persons to do or not to do something. These rights are called rights *in personam* and the relation between the parties thereto is called “obligation.” The terms “right *in rem*” and “right *in personam*” are undoubtedly open to objection in that “right *in rem*” suggests proprietary rights, (rights *ad rem*) and also suggests the distinction between proceedings *in rem* and *in personam*, which is another matter. But long-settled usage justifies them. In Anglo-American law we may recognize the following rights:

In Rem.—(1) Rights securing personality: (a) personal integrity: the right not to be injured in body or mind by the acts or negligence of others; (b) personal liberty; the right of free motion and locomotion except as restricted by law and restrained by the proper officers, acting in the proper way; (c) reputation; (d) immunity from abuse of legal process: this right secures both personality and substance; (e) privacy (*see*). The existence of such a right is in dispute.

(2) Rights securing substance: (a) private property; (b) immunity from injurious fraud; (c) advantage of profitable relations with others.

In Personam.—1. Contractual. Rights attached by law to promises or agreements. 2. Quasi-Contractual. Rights of restitution or compensation for a benefit conferred by or obtained in fraud of complainant, imposed directly by law to prevent unjust enrichment of one at the expense of another. 3. Fiduciary. Right to have a trust or confidence carried out specifically in good faith. 4. Delictual. Rights of compensation where a preëxisting right *in rem* has been infringed.

Remedies.—In the administration of justice, the state acts in three ways: by punishment, by prevention, by redress. Punishment is now relegated almost entirely to criminal law. The sole exception is punitive damages in case

of wanton and malicious injuries. Prevention is an extraordinary remedy afforded only in equity. Redress is of two kinds: specific, granted only in equity as an extraordinary remedy in special cases, and substitutional, i. e., a money equivalent by way of damages, which is the ordinary legal remedy. In continental Europe, on the other hand, specific redress is the normal remedy.

See JURISPRUDENCE: LAW.

References: J. Austin, *Jurisprudence* (5th ed., 1911), Lectures 12, 14, 15, 16, 17; T. E. Holland, *Jurisprudence* (11th ed., 1910), chs. vii, viii; J. W. Salmond, *Jurisprudence* (3d ed., 1910), chs. 4, 10, 11; N. M. Korkunov, *General Theory of Law* (transl. by Hastings, 1909), §§ 27-30; K. Gareis, *Science of Law* (transl. by Kocourek, 1911), 93-114; J. Kohler, *Einführung in die Rechtswissenschaft* (1902), § 6.

ROSCOE POUND.

RIGHTS, CONSTITUTIONAL. See BILLS OF RIGHTS; CIVIL RIGHTS; LIBERTY, CIVIL.

RING, POLITICAL. A term applied to a combination of practical politicians who have leagued together under the direction of a leader (boss) for the purpose of "working the political machine" and controlling the organs of government for their mutual advantage. The ring found a favorable field for exploitation in municipal administration under conditions immediately succeeding the Civil War. See BOSS; CANAL RING; MACHINE; ORGANIZATION; PARTY; TAMMANY. O. C. H.

RIOTS, SUPPRESSION OF. Under the common law any assemblage with disorderly intent is illegal, and subject to dispersal by military force. A statute of 1714 intended to give reasonable notice provides that the act shall be read to the riotous assembly as a warning; and thereafter they may be dispersed by force. This brings in a delicate question on the relation between the civil and military authorities. Soldiers who killed rioters were not infrequently put on trial for murder, as after the so-called Boston massacre of 1770 when John Adams defended the soldiers. In the Gordon riots of 1780 the Lord Mayor of London lacked courage, and the troops were finally instructed by King George III to break up the riots; and great numbers of people were killed in the street.

In the United States, riots usually are suppressed by the city police; though where they result from labor strikes the police may be indifferent. There is usually no legal formality in the United States necessary before breaking up a riot; but the police will rarely use firearms on rioters unless themselves attacked.

The usual dependence for suppressing serious riots, is the state militia (see) which cannot be brought to the scene of action without hours and sometimes days of delay. It is a force

ill adapted to the service; made up of men who have regular occupations, and are neither drilled nor provided for such arduous service. In serious difficulties, they may be kept out for weeks. In some cases the militia sympathizes with the rioters, and can hardly be brought to fire into a crowd; in all cases it is not adapted to the service.

One state, Pennsylvania, has a small body of mounted state police (see CONSTABULARY, STATE) which is a well-drilled and fearless body, and very efficient, both in preventing and in quelling riots. In some cases where the riots spring out into a series of outbreaks, the state governor asks for United States troops, which the President has constitutional authority to grant; but it is an unpopular method (see ORDER, MAINTENANCE OF). On the other hand the President may call, and in several recent cases has called, the federal troops to suppress riots if they impede interstate commerce, interrupt the carrying of the mails, or are directed against the laws and authority of the Union.

See COERCION OF INDIVIDUALS; CONSTABULARY, STATE; EXECUTION OF PROCESS; INSURRECTIONS; MOBS AND MOB RULE; ORDER, MAINTENANCE OF.

References: "Federal Aid in Domestic Disturbances" in *Sen. Docs.*, 57 Cong., 2 Sess., XV, No. 209 (1903); A. B. Hart, *Actual Government* (rev. ed., 1906), § 251, *National Ideals Historically Traced* (1907), ch. xviii; J. A. Moos, *Riot Duty* (1911); bibliography in A. B. Hart, *Manual* (1908), 229.

ALBERT BUSHNELL HART.

RIPARIAN RIGHTS. The rights of the owner of property abutting on a stream or lake or on tide water, to the use of the water and the privileges connected with it. No rights in tide water extend to the abutter beyond low-water mark; and in some states as New Jersey, he has no ownership beyond the high-water mark. The riparian has the right to construct piers and other approaches, without interfering with the navigability of the stream or other water; and he owns the surface of the ground under the water to midstream or other point defined by statute, and may thus be the owner of oyster beds (see OYSTER COMMISSIONS).

Of late years, outside of questions of docks and wharves in commercial cities, the most important riparian question is that of the right to take water out of a stream for irrigation and other purposes. The parts of the United States settled previous to 1850 had abundant rainfall and hardly knew what irrigation was; hence, no effort was made to reserve the streams in the far West and they fell to the first settlers who took up land along them. Canals for irrigation were at once constructed but there was then plenty of water all along the streams. As time went

on, more and more water was taken out of the upper portions of the streams, thus depriving the abutters on lower reaches from filling their canals. Where the stream took its rise in one state and flowed into another, an opportunity was presented for a suit between the states. In the case of *Kansas vs. Colorado* (206 U. S. 46), decided May 31, 1907, it was held the Federal Government had no authority to control state use of waters within its boundaries, except as regards navigation. No subject is more confused than the law and practice of riparian rights to use and to abstract water. The issue brings in the rights of mills and factories, run by water power. The cities also reach out for water supply and are sometimes accused of cutting off the rights of lower riparian owners by abstracting their water.

See CONSERVATION; IRRIGATION AND IRRIGATED LANDS; LAKES, JURISDICTION AND NAVIGATION OF; PUBLIC WORKS, NATIONAL, STATE AND MUNICIPAL; RIVERS, JURISDICTION AND NAVIGATION OF; WATER BOUNDARIES.

A. B. H.

RIPPER BILLS. A term applied to acts of state legislatures for the reorganization of city governments, intended to turn incumbents out of office, and to put in a new set of officials. The most striking case was the series of statutes passed in Pennsylvania in 1901 and 1902 by which the governor was authorized forthwith to appoint city recorders in a group of cities in place of the elective mayors then in office—the governor to have power of removal. Pittsburgh, Allegheny and Scranton were thus reorganized: the real purpose being to replace the mayors belonging to one faction by executives belonging to the other. This legislation was upheld by the state supreme court. See CHARTERS, MUNICIPAL; CITY AND THE STATE. References: National Municipal League, *Proceedings*, 1901, 133, 1903, 145; C. R. Woodruff, "Ripping as a Fine Art" in *Independent*, LIV (1902), 400. A. B. H.

RIVER AND HARBOR BILLS. The name applied since about 1822 to national statutes for the improvement of natural waterways, in a few cases also including artificial canals. The name practically implies a balance of appropriations between the coast states and the interior states; in fact such bills have usually rested upon a wide distribution of items among congressional districts, so as to secure the necessary majority. Appropriations for internal improvements of this kind and for public buildings are recognized means of securing popularity and reelection for members of Congress, especially in the House.

River and harbor bills have been many times vetoed, particularly prior to the Civil War. Jackson, Tyler, Polk and Pierce all doomed some of the measures that reached them, and the appropriations were kept down to small

amounts. The total expenditure of the government prior to 1861 was \$14,541,342.92.

About 1866 the practice of passing a river and harbor bill arose again, and though checked by some vetoes, especially by President Arthur, there has been usually about once in two years a river and harbor bill, including large appropriations for the great harbors and rivers, and a multitude of small items. The bill is prepared by a special committee of the House on rivers and harbors, has been frequently kept in limits by the influence of the Speaker, and presumably the greater part of it is for the public welfare.

River and harbor bills are always under suspicion because they are put together by log rolling, and in order to get the votes from members from remote districts, small and unnecessary items are often inserted. Even larger improvements, backed by apparent public necessity sometimes prove worthless, as for instance, the canal around the Mussel Shells shoal of the Tennessee River, and the canal from the sea coast to Houston, Texas. In 1882 President Arthur severely criticized river and harbor legislation, and backed it up by a report from Robert A. Lincoln, the Secretary of War. Nevertheless the popular demands for deep and wide water communications from the lakes to the Mississippi and thence to the Gulf, seem likely to stimulate expenditures of this kind.

See CANALS AND OTHER ARTIFICIAL WATERWAYS; HARBOR SYSTEMS; INLAND WATERWAYS COMMISSION; MISSISSIPPI AND MISSOURI RIVER COMMISSIONS; PUBLIC WORKS, NATIONAL, STATE AND MUNICIPAL; WATERWAYS, NATURAL, REGULATION OF.

References: E. C. Mason, *Veto Power* (1890), §§ 83-92; A. B. Hart, "Biography of a River and Harbor Bill" in his *Practical Essays in Am. Government* (1893), No. 9; E. R. Johnson, "River and Harbor Bills" in *Am. Acad. Pol. Soc. Science, Annals*, II (1892); bibliography in A. B. Hart, *Manual* (1910), § 120 (lect. 74). ALBERT BUSHNELL HART.

RIVERS, JURISDICTION AND NAVIGATION OVER. Jurisdiction over rivers as regards their navigation is vested in Congress; thus the channel of a navigable river is under the control of the United States. In all other matters than navigation, the states have control over rivers. The bed of the stream is a part of the territory of the states and the use of the flowing water for power and municipal purposes is subject to state law (see WATER BOUNDARIES AND JURISDICTION).

When the United States Government improves a river past a city or town located upon a stream, the Secretary of War, acting through the Corps of Engineers, marks the navigable channel and establishes the pier-head line to which wharves may be constructed from the bank into the stream. No state may, without the approval of the Secretary of War, construct

any dam in a stream or any bridge over it that may obstruct the use of the river for navigation. The authority to construct a bridge across a river forming the boundary of two states must be secured from Congress.

All vessels employed upon the navigable waterways of the United States must be registered, enrolled, or licensed by the United States Government (*see* REGISTRY OF SHIPPING). No vessel documented by the United States can be required to take out a state license or to pay a fee for the privilege of operating upon the navigable waterways within any state.

See LAKES, JURISDICTION AND NAVIGATION OF; NAVIGATION, REGULATION OF; STEAMBOAT INSPECTION; WATER BOUNDARIES AND JURISDICTION.

Reference: T. H. Calvert, *Regulation of Commerce under the Federal Constitution* (1907), ch. ix.

EMORY R. JOHNSON.

ROAD TAX. Formerly it was the common practice in country towns for the local government to levy a special road or highway tax, and to permit tax-payers to commute the same by labor upon the roads. As a separate tax this practice has now become uncommon. In California, road districts may be established by the county supervisors who may upon authorization of the voters collect a special road tax. In Illinois, local road commissioners are authorized to make a list of all able-bodied men in a town, between the ages of 21 and 50, and assess not less than \$1 nor more than \$2 as a poll tax for highway purposes. The tax may be worked out by labor. In Michigan the rate is based upon assessed valuation, and is payable in labor as well as in money. "Working out the tax" is one of the causes of bad roads in rural regions. See ROADS; TAXATION, CONSTITUTIONAL BASIS OF; TAXATION, SUBJECTS OF.

D. R. D.

ROADS

The country roads of the United States have been built mainly since 1800; before that time the "Old York Road" between New York and Philadelphia (1711), the "Lancaster Turnpike" between Philadelphia and Lancaster (1792), the "Wilderness Turnpike" from Virginia to Kentucky, and several other important roads had been opened; but wagon roads were few, the chief routes were trails, and travel was slow and dangerous. From that time until the introduction of railroads, about 1830, there was great activity in road building. The betterment of the common roads became one of the vital issues in national politics. Hundreds of miles of important roads were built by aid from the national government, and thousands of miles by the turnpike companies (*see* TOLL ROADS); and in addition the towns greatly increased the more local road mileage.

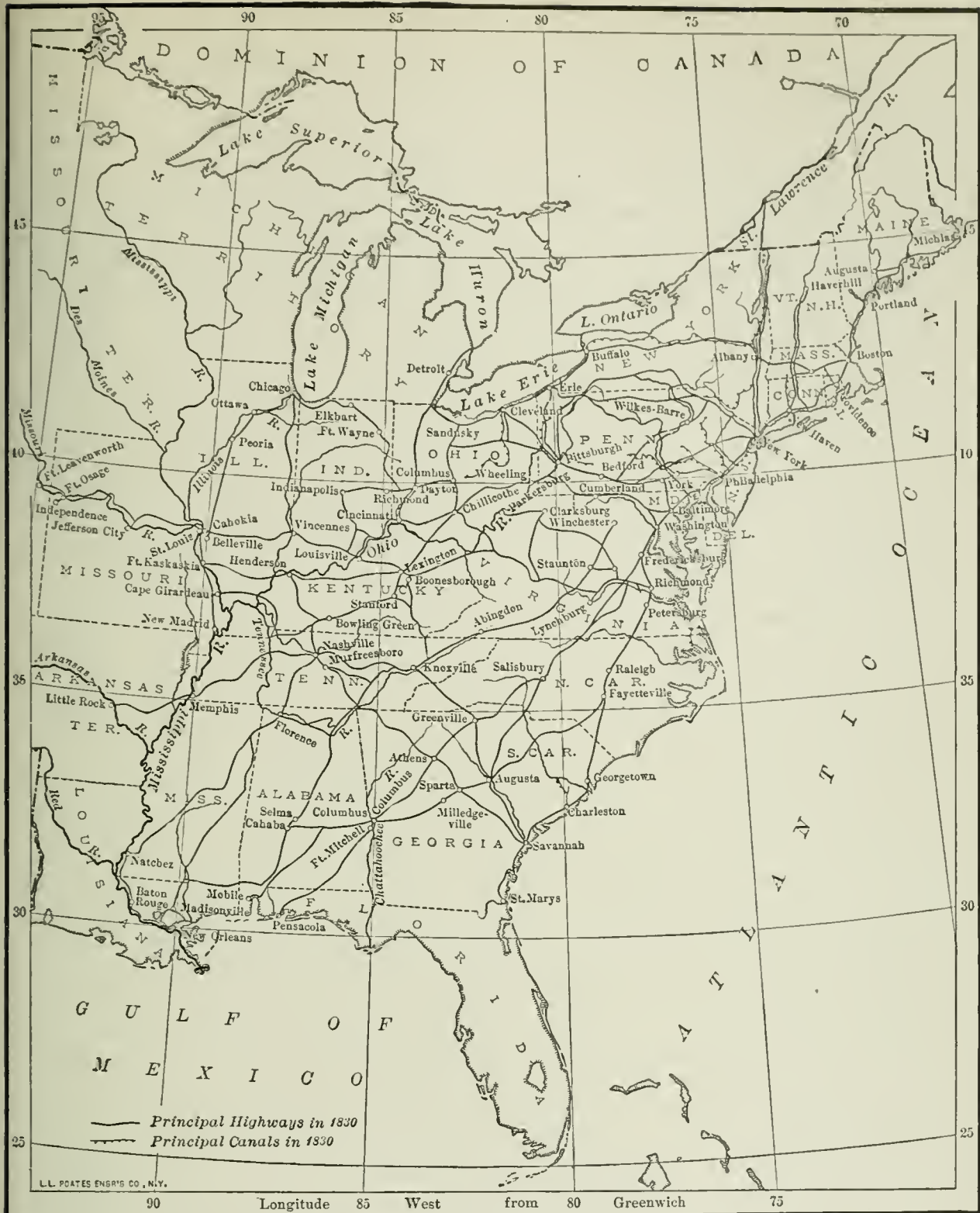
The rapid development in railroad building, beginning in 1830, made the common roads seem unimportant; both public and private funds were largely withdrawn from road building and maintenance, and the roads greatly deteriorated. That the railroads, and later the electric roads, did not decrease the importance of the roads, but rather enormously increased road traffic, was eventually recognized. Yet for more than half a century after the introduction of railroads only sporadic attempts at road improvement were made, following closely the periods of general prosperity, and ceasing in the frequent periods of depression. About 1890 an organized movement to secure better roads began, which in public and private activities has grown to large proportions, and has already produced a marked improvement in the roads. The public roads (outside of incorporated cities and villages) of the United States,

exclusive of Indian Territory, Alaska, and the island possessions, in 1909 numbered 2,199,645 miles. Of these 102,870 miles were surfaced with gravel, 59,237 with broken stone, 28,372 with brick, sand-clay, or oil; making 190,479 miles of improved roads, which is only 8.66 per cent of the total mileage.

Town or Township Authority.—The responsibility for the common roads has throughout rested primarily with the towns or townships, and to a limited extent with the counties. In colonial times roads were built mainly by volunteer labor; this being unsatisfactory, the "forced-labor" system, inherited from Europe, was established first by town ordinances, and eventually by law in nearly all states. Every able-bodied citizen of stated age was required to work on the roads for a given number of days every year or to pay a fine; or in some cases a road tax payable in labor was levied. Forced labor has rarely been diligently or honestly performed. The workmen themselves did not know how to build even good dirt roads, and the "overseers" and "supervisors" in charge were usually of their own number, and not skilled roadbuilders. As the citizens could not be forced to work except in the road districts where they resided, the building of longer roads between distant communities was difficult. The townships or towns are usually divided into road districts by the county or town officers, or elected at the town meetings; but "supervisors" who are appointed by the county officers, or elected at the town-meetings; but except under well managed town governments the district road officers are to all intents and purposes not responsible to higher authority.

County Authority.—The authority for laying out roads commonly rests with the county

ROADS



PRINCIPAL HIGHWAYS AND CANALS IN 1830

commissioners, courts, or highway boards; in ten states, including all New England, with the town officers. The duties of the county officers are mostly limited to acting upon petitions to legalize new roads, building important bridges, and where money is available building county roads. As late as 1889 only fifteen states had made provisions enabling the counties to employ surveyors or engineers to lay out roads, of these at least two allowed the employment of skilled engineers in building roads; but the provisions were usually optional. In building and maintaining roads the counties have had in general small mandatory powers.

Local Responsibility.—Our road system has thus been developed from the standpoints of local interests, and not located to serve economically the needs of the larger territorial units, nor built in accordance with their relative importance. Roads were commonly laid out along property lines, resulting in very irregular alignment in the older communities, and square corners where the roads followed the quarter-section lines of the government land subdivisions; and but little attention was given to securing low grades. The road builders, although often immigrants from countries having good roads, had no knowledge of how to

build good roads, worked without skilled supervision, often under difficult conditions, and with poor materials or without suitable machinery, and largely under an inefficient system of forced labor.

State Aid.—The states have not until recently given substantial systematic aid to road building. The road laws have been gradually bettered by abolishing forced labor, and establishing more liberal road taxes payable only in money: by authorizing county and township bond issues for building roads; by giving the counties more power to build important roads under contract, and to secure skilled engineers; by amending the convict labor laws; and in general providing for the enforcement of existing laws. The employment of state or county convicts to build roads, or to prepare broken stone which is sold at cost for road surfacing, has long been a prevailing practice. While the prisoners are at work on the roads the cost of keeping and guarding them is paid out of the road funds. Although the convict-labor system has considerable merit, it is open to certain grave objections, and is opposed by labor unions. The practice is diminishing. Several states have at times built or aided in building special roads: Ohio early passed a coöperative road law enabling the counties to build roads, paying half the cost from the proceeds of bond issues, and assessing half upon the property owners within one or two miles; but for nearly a century Kentucky was almost unique in its organized efforts for good roads. In 1797 that state passed a good road law, and early appropriated large sums, and organized lotteries, for road purposes; and before 1840 had a permanent state highway engineer corps for which an annual appropriation of \$33,000 was made. In 1891 New Jersey passed the first modern state-aid law; and by 1911 thirty-six states had passed laws which in addition to certain general improvements already mentioned, contained provisions for direct aid in money, skilled superintendence, and expert advice for road building. This aid is administered by commissioners or engineers who are appointed by the state executives, or elected. The new laws, while varying in scope and detail, primarily provide for coöperation between the states and the local communities. This legislation not only recognizes long established local responsibility but also aims to increase it, and to stimulate local efforts by education and demonstration, and by aid in money when the local demands for better roads arise. The prevailing form of state aid leaves the actual construction and maintenance, as well as the initiative for betterment to the counties or road districts: the states pay from one-third to three-quarters of the cost of building and require that construction shall conform to certain specified standards of type and excellence. In Massachusetts, on the other hand, the state highway

commission builds and maintains the state highways; but the counties are required to pay one-fourth of the cost of building, collecting it from the towns in proportion to their assessed valuation. Although this commission has initiatory powers to lay out and build state highways, it must hold advertised hearings and consider public expressions of opinion before proceeding. In a few states the only important functions of the state highway officers are investigating and demonstrating good methods of construction, and furnishing expert advice. In recent years the control of automobile traffic and of certain public corporations using the roads has been placed in the hands of the state-highway officers. The difficulties of administering state aid arise in so apportioning funds, or locating roads as to avoid local jealousies, in getting construction to conform to the required standards, and in determining to the satisfaction of local authorities whether certain types of roads are sufficiently permanent to warrant state aid. The chief defect is that provisions for maintenance are lacking or not enforceable; and this question is enormously complicated by the now large and destructive automobile traffic.

National Aid.—National aid to road building was an important issue in politics during the early years of the last century, and had powerful partisans; but many measures failed to pass, or were vetoed largely because of opposition based on the belief that such aid was unconstitutional. The act of Congress (1802) admitting Ohio included a provision which led to appropriating five per cent of the net proceeds from the sale of public lands in Ohio, for building roads in that state and leading to it: such roads to be laid out under authority of Congress. In 1806 the first appropriation was made under this act; and in 1811 the first contract was let for ten miles of the "Cumberland Road" (*see*) which eventually was built from Cumberland, Maryland, to and through Ohio, and to St. Louis, Missouri, chiefly by appropriations from the sale of public lands, amounting to about \$7,000,000. By 1853 every part of this road had been surrendered to the states in which it was located. From similar funds appropriations for roads were made in other states, and, while the Cumberland Road was building, twelve other national roads were laid out in various parts of the country, and considerable construction work was done; between 1806 and 1845 about \$5,000,000 was appropriated for these roads; and approximately \$1,600,000 from 1845 to 1861, chiefly for roads in the territories. Since then (outside of the District of Columbia) appropriations have been made only for roads leading to the national cemeteries from nearby towns. In 1893 the "Office of Road Inquiry" later named the "Office of Public Roads" was established under the United States Department of Agriculture

(*see*). This office collects and disseminates information and gives expert advice concerning road construction and administration; conducts investigations and experiments regarding road-building materials, and methods of road construction; makes tests of road materials; makes demonstrations of methods of construction, and prepares publications on these subjects; and gives a course of instruction for road engineers. The appropriations for this office exceed \$100,000; and its laboratories and organization are probably unequalled elsewhere. None of its funds are available for actual road building except for purposes of research or demonstration. Through its various activities this office has been one of the most potent factors in the present movement for better roads.

Good Roads Movement.—"The good roads movement" may be said to date officially from the organization of the National Good Roads Association at Chicago in 1890, the result of growing public opinion demanding better roads, and the direct efforts of a small group of public-spirited citizens. In 1891 the New Jersey state-aid law was passed, rapidly followed by similar laws in thirty-five other states. The establishment of the Office of Public Roads was a result of organized agitation. Several periodicals devoted to good roads and having large subscription lists are published. Many of the railroads have aided good road building in various ways but chiefly by providing cheap transportation of road materials; and several of the great railroads have at their own expense conducted educational campaigns by sending out demonstration trains fitted with road-making machinery in charge of experts to show farmers and road officials how to build good roads. There are at present 12 national, 55 state, and 155 local associations organized primarily to secure good roads; and more than 330 other organizations which take an active interest in road improvement. The activities of all these varied agencies have been enormous, and so intimately connected that it is impossible to distinguish cause from effect. In a quarter of a century the status of public roads has completely changed. Although the proportion of good roads in the whole system is yet small, the actual mileage of roads improved is very large. Ignorance of how to build good roads has changed to a widespread knowledge of excellent methods of construction. And public opinion has reached the point where good roads are looked upon as a necessity.

See BRIDGES, PUBLIC; CUMBERLAND ROAD; FERRIES; GOOD ROADS MOVEMENT; PARKS AND BOULEVARDS; PAVEMENTS; STREETS; TOLL ROADS.

References: J. W. Jenks, "Road Legislation for the American State" in *Am. Econ. Assoc. Publications*, IV (1899), 153-227 and App. II; N. S. Shaler, *Am. Highways* (1896); R. Stone, *New Roads and Road Laws in the U. S.*

(1894); U. S. Dept. of Agric., *Year Book*, 1901, 319-332; 1908, 144-150, 171-173, 590-596; 1909, 147-150, and year by year; Office of Road Inquiry, *Bulletins*, Nos. 13, 17, 18 (1895), No. 25 (1902), No. 26 (1903); Office of Public Roads; *Bulletin*, No. 41 (1912); *Unpublished Statistics* (1911); State Highway Commissioners and Engineers, *Annual Reports*; *Am. Year Book*, 1910, 492, and year by year.

HECTOR J. HUGHES.

ROLLS AND LIBRARY, BUREAU OF. The Bureau of Rolls and Library is one of the bureaus of the State Department. It is charged with the care and preservation of the official rolls and library. **References:** Secretary of State, *Annual Reports*; C. H. Van Tyne and W. G. Leland, *Guide to the Archives* (2d. ed., 1907), 32-54. A. N. H.

ROMAN LAW. See LAW, CIVIL.

ROME, INFLUENCE OF, ON MODERN GOVERNMENT. The political organization of the Roman Empire comprised three important elements—the imperial system, the provincial system and the municipal system. All of these organic features have formed, in a greater or less degree, hereditary factors in the evolution of modern political society.

The tendency toward political centralization in mediæval and modern times has its historical origin, to a large extent, in the persistence of the imperial idea after the disruption of the empire. This is seen in the disposition of the barbarian kings to adopt Roman methods of government, also in the revival of the imperial title by Charlemagne and the German monarchs, as well as in the imperial organization of the Roman church, and in many of the centralized institutions of modern states. Moreover, the royal court system of modern Europe is an offspring of the later Roman Empire.

In the provincial system of the later Roman Empire, the central authority was exercised through a body of appointive territorial officials, with no provision for local autonomy on the part of the province itself. This system has been generally adopted by modern governments in the control of subject territory, and especially in the organization of colonial establishments, the chief exceptions being found in the self-governing colonies of Great Britain, and in the territorial possessions of the United States.

With the exception of the influence of the Roman civil law (*see* LAW, CIVIL), the most important contribution of Rome to the modern state is doubtless the idea of the municipality as a corporate and political body, vested with certain rights of local self-government. The Roman *municipium* was an incorporated political community with local rights guaranteed by a special charter or by a general law (*lex*

municipalis). The revival and enfranchisement of European cities during the later mediæval period was coincident with the revival of the Roman law. Whatever may have been the diverse origin of these cities, the method of their legal enfranchisement by the granting of charters was drawn essentially from the revived Roman law relating to corporations. This idea has been preserved as a basic feature in the modern system of government of cities.

According to the theory of the Roman lawyers, the source of political authority, however centralized it may be, rests ultimately with the people. The Roman maxim (which is too often curtailed when quoted) was, "Whatever is pleasing to the prince has the force of law, because the people by the *lex regia* have conferred upon him all his authority" (Ulpian). Neither the ancient nor the mediæval civilians ever held the doctrine of "divine right", this theory being first formulated by the Christian Fathers from interpretations of Scripture, and afterwards supported by the mediæval canonists. Of the two most important modern theories of government, therefore—that of "popular sovereignty" and that of "divine right"—the former, which has become the prevailing theory, must be referred primarily to the Roman civilians.

See LAW, CIVIL.

References: J. Bryce, *Holy Roman Empire* (rev., 1904); W. Smith, *Dictionary of Greek and Roman Antiquities*, "Imperium," "Lex Regia," "Provincia" (3d ed., 1891); W. T. Arnold, *Roman Provincial Administration* (2d ed., 1906), ch. viii; R. W. and A. J. Carlyle, *Hist. of Mediæval Political Theory in the West* (1903); J. A. Fairlie, *Municipal Administration* (1910), Pt. I.

WILLIAM C. MOREY.

ROORBACK. A term signifying a political forgery, or a false report issued for political purposes, which usually reacts upon the promoter. It is supposed to have originated in 1844 from the publication, for party purposes in a Whig newspaper, the *Ithaca*, New York, *Chronicle*, of alleged extracts from a fictitious work, "Travels of Baron Roorbach."

O. C. H.

ROOSEVELT PARTY. A term applied by the newspapers (particularly the *Nation*) during Roosevelt's administration, to that group in the House of Representatives which supported the "Roosevelt measures" especially the Philippine tariff measure. Also sometimes applied during President Taft's administration to that group of Republicans, looking to Roosevelt as their leader. That group later became a chief element in the Republican party. See PROGRESSIVE PARTY; REPUBLICAN PARTY; ROOSEVELT, THEODORE.

O. C. H.

ROOSEVELT POLICIES. The moral and political reform policies, such as conservation of natural resources, curbing of the "plutocratic domination" and the elimination of the "menace of predatory wealth," and governmental control of railroads, advocated by Theodore Roosevelt (*see*) during his presidency. So called because he advocated the reforms upon his own initiative rather than as carrying out the pledges of a party platform. The term is applied also to the principles advocated in "New Nationalism" (*see*). O. C. H.

ROOSEVELT, THEODORE. Theodore Roosevelt (1858–), twenty-sixth President of the United States, was born at New York City, October 27, 1858. From 1882 to 1884 he was a Republican member of the New York assembly, at the same time championing the cause of civil service reform. From 1889 to 1895 he was a member (eventually chairman) of the United States Civil Service Commission; then for two years president of the police board of New York City. In 1897 he became assistant secretary of the navy, resigning in 1898 to serve in the war with Spain as commander of the "Rough Riders." In 1899 he was elected governor of New York, and the next year was elected Vice-President. On the assassination of McKinley, in 1901, he succeeded to the presidency, and in 1904 was elected President, receiving 336 electoral votes against 140 for Alton B. Parker, the Democratic candidate. His career was characterized by restless interest in almost every phase of American life, vigorous and reiterated denunciation of public and private misconduct, and an energetic foreign policy which commanded the respect of the world. On his retirement from the presidency he hunted in Africa, and on his return visited Europe, where he was received with unprecedented honor. In March, 1912, he announced himself as again a candidate for the presidency; but did not carry the Republican national convention. He was nominated by the Progressive party, which came into existence as a separate party based on his policies, and received 88 electoral votes in the November election. His numerous publications include: *Naval War of 1812* (1882), *lives of Thomas H. Benton* (1887) and *Gouverneur Morris* (1888), and *The Winning of the West* (4 vols., 1889–1893). See CONSERVATION; PRESIDENT, AUTHORITY AND INFLUENCE OF; PRESIDENTIAL ELECTIONS; PROGRESSIVE PARTY; REPUBLICAN PARTY. References: T. Roosevelt, *Works* (1903); J. M. Miller, Ed., *The Triumphant Life of Theodore Roosevelt* (1904); F. E. Leupp, *The Man Roosevelt* (1904); W. F. Johnson, Ed., *Addresses and Papers of Theodore Roosevelt* (1909). W. MACD.

ROOSTER, DEMOCRATIC. A Democratic party emblem printed at the head of a column in the party press announcing a party victory;

in some states placed also at the head of the Democratic party column on the election ballot. It probably originated in Indiana in 1842, where Chapman, the editor of the *Indianapolis Sentinel*, was accused of crowing prematurely. When it was evident that the Democrats had won, Chapman printed the rooster over the inscription, "We Crow." See PARTY LABELS.

O. C. H.

ROOT, ELIHU. Elihu Root (1845-) was born at Clinton, N. Y., February 15, 1845. He was admitted to the bar in 1867, and from 1883 to 1885 was United States district attorney for the southern district of New York. In 1894 he was a delegate at large to the New York constitutional convention, where he served as chairman of the judiciary committee. He had, in the meantime, risen to the front rank as a corporation lawyer, and was influential in the councils of the Republican party. In 1899 he was appointed Secretary of War, in which office he achieved the creation of a general staff and the reorganization of the militia, and for a time directed the administration of Cuba and the Philippines. In 1903 he was a member of the Alaska boundary tribunal. He resigned the war portfolio in February, 1904, was temporary chairman of the Republican national convention at Chicago in that year, and in July, 1905, was appointed Secretary of State, in which office he continued, especially towards Asia and South America, the policy of John Hay. In November, 1907, he opened the Central American peace conference at Rio Janeiro. He resigned the secretaryship January 22, 1909, to accept an election as United States Senator from New York. In 1910 he was counsel for the United States in the North Atlantic fisheries arbitration at The Hague. In 1912 he was temporary and permanent chairman of the Republican convention. See PAN AMERICAN CONGRESSES; STATE, DEPARTMENT OF. **References:** J. H. Latané, *Am. as a World Power* (1907); *Am. Year Book*, 1910, and year by year. W. MACD.

ROTATION IN OFFICE. This principle, designed to prevent the growth of an office-holding aristocracy, implies short terms and limitations upon reëligibility. Advocated in England during the Commonwealth as a remedy for political corruption and introduced into New Amsterdam by the Dutch, it found some acceptance in colonial New England and was embodied in Penn's famous "Frame of Government." The earliest state constitutions provided for it "in order to prevent those who are vested with authority from becoming oppressive" (Massachusetts, 1780). By 1830 the principle had been applied to the office of governor in fifteen states and to some other offices in nineteen. In this way political leaders became possessed of a great deal of patronage, which was first used openly and continuously

for partisan purposes in New York. The central government was not immediately affected by this tendency. Under the first six Presidents, covering a period of forty years, there were only 73 removals. Jackson was the first President to carry approval of rotation beyond abstract political philosophy. According to his view all public duties were, or could be made, so simple that intelligent men could readily qualify themselves; and long occupation of public office was apt to breed feelings unfavorable to faithful service and "a habit of looking with indifference upon the public interests and of tolerating conduct from which an unpractised man would revolt." Acting on this view, Jackson swept his political opponents out of office. The spoils system (*see*) was definitely established. Both parties accepted it. When the Whigs (*see*) came to power in 1841 there were 458 removals out of a possible 924; and Lincoln made a cleaner sweep than Jackson or any other President.

According to the arguments of those who introduced the system rotation was intended to give effect to the democratic ideal of equality and to prevent the rise of an arbitrary and arrogant official class. It was held to equalize the burdens of office, spread political education and save free government from corruption through the establishment of hereditary tenure. In practice it has been one of the most active agents in debauching political life. In the municipal, state and national governments, except where the merit system (*see*) has been applied, each change in party control has been followed by something like a general proscription of appointed officials. The tenure of office (*see*) depends upon success at the polls. Hence political leaders have at their command an army of mercenaries. The idea of rotation begot the spoils, and the large class of professional politicians has since grown up on it. Naturally the public service has suffered, either because the incumbents are inefficient or inexperienced or because, knowing that their positions are insecure and that faithful service will not protect them from removal, they make the most of their uncertain offices while they have them. Many people, seeing the evils, magnify them, and come to regard politics almost contemptuously and to feel something of the cynicism which prevails among the professional politicians.

References: C. A. Beard, *Am. Government and Politics* (1910), 94, *Readings in Am. Government and Politics* (1911), 81-83; J. Bryce, *Am. Commonwealth* (ed., 1911), II, ch. lxxv; C. R. Fish, *The Civil Service and the Patronage* (1905), chs. iv-viii.

CHARLES A. BEARD.

ROTTEN BOROUGHES. The rotten boroughs were 56 English boroughs which lost their representation of 111 members in the House of Commons by the Reform Act of 1832. Most

of them had fewer than 2000 inhabitants; but number of houses and amount of taxes paid, as well as population, were considered before striking a borough off the parliamentary role. The representation thus taken away was distributed mainly among the hitherto unrepresented or inadequately represented, large manufacturing towns, such as Manchester and Leeds. The grievance against the rotten borough members was twofold. First, they were elected by ridiculously small constituencies, 70 of them being returned from boroughs with scarcely any electors. Secondly, they were the choice, not of these constituencies, but of men who controlled the voters through influence or outright purchase. Some of the rotten boroughs had secured a fairly deserved representation in the thirteenth century and afterwards deteriorated. Others, like notorious Old Sarum, were enfranchised later, merely to strengthen the influence of the monarchs in the House through members easily controlled. See **HOUSE OF COMMONS**; **PARLIAMENT**. **References:** W. Heaton, *The Three Reforms of Parliament* (1885), 1-113; E. A. Freeman, "Decayed Boroughs" in his *Historical Essays*, 4th series (1892); E. Porrit, *Unreformed House of Commons* (1903). H. A. Y.

ROUGH RIDERS. A popular designation given the First United States Volunteer Cavalry organized by Leonard Wood and Theodore Roosevelt for service in the Spanish-American War, and recruited largely from the cowboys of the western plains. Theodore Roosevelt (*see*) was Lieutenant Colonel and afterwards Colonel. O. C. II.

ROUNDER. A term denoting a member of an undesirable class in the city, which goes the round of the saloons and gambling houses, or goes the round of petty crime, imprisonment and release. The term has political significance in that such a class furnishes material available to the "political workers." See **FLOATERS**; **REPEATERS**; **VOTERS**, **COLONIZATION OF**. O. C. II.

ROUSSEAU, JEAN JACQUES. See **POLITICAL THEORIES OF CONTINENTAL PUBLICISTS**.

RULE, BRINGING IN A. For some years prior to March 19, 1910, the rules of Congress had been so construed as to prevent the introduction of any rule after the organization of Congress without the consent of the standing committee on rules. The importance of the procedure for bringing in a rule lies in the fact that the passage of legislation through the House is now largely dependent either upon the securing of unanimous consent or upon the adoption of special rules by which the consideration of measures and voting on them at definite times can be assured. Originally the House had dispensed with a standing committee for the consideration of special rules by laying proposals for such rules on the table for a day, and then taking them up for final action. But after 1880 the practice grew up of referring such resolutions to a standing committee on rules. This practice was confirmed by rulings of successive Speakers, that a motion to refer a proposed rule to a committee other than the committee on rules was out of order, that resolutions concerning special rules must be referred to and reported by the committee on rules before action might be taken by the House, and that the committee on rules might report a special order that had not previously been committed to it. Thus the exclusive control over the bringing in of special rules and of amendments to the standing rules was vested in the committee on rules. On March 17, 1910, however, the high constitutional privilege of any member to bring in a proposal relating to the rules without reference to the committee on rules was asserted on the floor of the House; and on March 19, 1910, the Speaker's ruling to the contrary was overruled, upon appeal, by the House. See **INSURGENTS IN CONGRESS**; **RULES OF CONGRESS**.

A. N. II.

RULE OF 1756. See **CONTINUOUS VOYAGES**; **DEPENDENCIES**; **NEUTRAL TRADE**.

RULES OF CONGRESS

Evolution of the Rules.—The rules of Congress, like the rules of legislative bodies generally in the United States, were founded originally upon the procedure of the English House of Commons, subject to the limitations imposed by the Federal Constitution (*see* **RULES OF LEGISLATIVE BODIES**). The early rules of both houses provided for a simple and regular order of business and imposed no limits upon the freedom of debate. They ignored the existence of political parties, and extended to each member the same right to the attention of the

house. The spirit of the early rules was equal opportunities to all and special privileges to none. Procedure in the Senate is yet characterized by this early simplicity and regularity, but in the House contemporary procedure is characterized by great complexity and irregularity. The effect is to deprive ordinary members, and especially members not of the majority party, of the same opportunities to influence the action of the House as are enjoyed by a privileged few. The essence of the change has been the concentration of control

over the deliberations of the House in the hands of the Speaker and other leaders of the majority party.

The causes of this change have been twofold: (1) the development of the physical conditions under which the business of the House must be transacted; (2) the rise of the system of government by party. The leading features of the control of the House by the majority party are: (1) the classification of business; (2) the arrangement of the order of business; (3) the assignment of special privileges to favored classes of business and to favored groups of members; (4) the limitation of debate; (5) the development of party organization. All bills and resolutions are now divided into four classes, each of which is placed on a separate calendar for consideration in regular order, subject to displacement by special orders in a manner that will be explained. The four calendars are: (1) the union calendar, on which are placed all public bills or resolutions relating to the raising or expenditure of public money; (2) the house calendar, on which are placed all other public bills or resolutions; (3) the private calendar, on which are placed all private measures; (4) the calendar for unanimous consent, established in 1909, to which non-contentious measures may be transferred from the other calendars for the purpose of expediting their passage (*see* CALENDAR OF LEGISLATIVE BODIES; CALENDAR WEDNESDAY).

The regular order of business, first definitely established in 1811, was as follows: (1) prayer; (2) reading and correction of the journal; (3) correction of reference of public bills; (4) disposal of business on the Speaker's table (messages from the President and Senate, etc.); (5) unfinished business; (6) morning hour for consideration of bills called up by committees (*see* MORNING HOUR); (7) motions to go into committee of the whole house on the state of the Union (for consideration of business on the union calendar); (8) orders of the day. Certain days, however, were eventually set aside for special classes of business (*see* PRIVATE BILLS DAY). On certain other days the rules were regularly subject to suspension for the transaction of business by unanimous consent; and on any day business might be transacted by unanimous consent, if a member could secure recognition for the purpose. The regular order of business in time ceased to bind the House to a daily routine, since the system of making certain important subjects privileged permitted the interruption of the regular order by matters which, in fact, often supplanted it entirely for days at a time. Indeed, regular orders of the day, such as exist for example in the Massachusetts House of Representatives (*see* RULES OF LEGISLATIVE BODIES), have long been in disuse in the federal House, their place being taken by special orders of business de-

vised and accepted by the House for special purposes.

Privileged Committees.—The privilege of interrupting the regular order of business was assigned: (1) to certain standing committees; (2) to all committees dealing with certain classes of business; (3) to all committees of conference for the purpose of making reports. The last, which have precedence over all other business, were privileged in order to expedite the final passage of legislation, which had previously passed both House and Senate, but in different form. The privileged classes of business include all bills and resolutions which have to do with the raising or expenditure of public money.

The privileged committees are now twenty-one in number, comprising most of the important standing committees of the House; but the key to the contemporary procedure in the House is to be found in the unique privileges assigned to the committee on rules. This committee was converted from a select into a standing committee in 1880, and, although the Speaker had regularly served thereon since 1858, it was not until the time of Speaker Carlisle (1883-1889) that it began to assume its recent importance. By successive rulings of the Speaker and orders of the House this committee was gradually invested with power effectively to control the order of business by means of special orders for special purposes, reported at any time subject to the assent of a majority. Such high privilege, when enjoyed by a committee on rules, working in harmony with a partisan Speaker (*see* SPEAKER OF THE HOUSE), and supported by a permanent and compact majority, was capable of converting the House of Representatives into a mere legislative machine for registering and making effective the will of that majority.

This potentiality of partisan control was made a reality by the limitation of debate. By the use of the hour rule (*see*) and the previous question (*see*), a leader of the House (*see*), acting under a special rule reported for the purpose by the committee on rules, can control debate and secure a vote at its termination. Along with this concentration of power in the majority party, went a corresponding consolidation of party organization. Both the Speaker and the committee on rules were made responsible to the majority party through the instrumentality of the party caucus (*see* LEGISLATIVE CAUCUS FOR LEGISLATION). Thereby a partisan majority was enabled to make an effective use of its power. The exercise of the power conferred upon the Speaker and the committee on rules, however, eventually gave rise to discontent, culminating in the year 1909. A minority of the then majority party complained that their advice received insufficient consideration by the party leaders, and that through the mechanism of the party organization and its control of the House their

consent to the official party policy was rendered superfluous. The minority party complained that it was deprived of an adequate opportunity for the presentation of its case against the measures of the majority. Individual members of all parties complained: (1) that the Speaker exercised a mischievous influence through his power to block private and local bills, usually passed by unanimous consent, by refusing recognition to the members wishing to call them up; (2) that privileged business too frequently interrupted the consideration of non-partisan measures; (3) that there was no means of compelling committees to report measures once committed to them back to the House.

Recent Reforms.—By the reform of the rules in 1909–10 several of these grievances were redressed. The Speaker's power to block legislation by unanimous consent was destroyed March 15, 1909, by the establishment of a special calendar for unanimous consent, upon which bills may be placed without the previous consent of the Speaker. This calendar is taken up on the first and third Mondays of each month and the bills thereon are called in order. Those to which any objection is made are replaced on the regular calendars, and the others are proceeded with so far as the unanimous consent of the House will permit. The vexatious interruption of ordinary by privileged business was restricted (March 1, 15, 1909) by the establishment of Calendar Wednesday (*see*), thus giving the House one day a week when ordinary business might take its regular course. The power of a committee to pigeon-hole a popular measure was destroyed (June 17, 1910) by a new rule enabling the House to discharge any committee from further consideration of a bill and to give to such a bill priority of consideration over any other bills subsequently reported by the same committee. The opportunities of a minority party effectively to criticize the legislation of a majority were enlarged (March 15, 1909) by providing that, after the previous question is ordered on the passage of a bill or joint resolution, one motion to recommit shall be in order, when the Speaker is bound to recognize a representative of the minority for the purpose of offering a substitute for the measure of the majority. Finally the speakership was separated from the committee on rules (March 19, 1910), and by the action of the Democratic caucus stripped of the power of appointing committees (January 19, 1911). The committee on rules was reorganized, and doubled in size. The majority of the new committee on rules, however, like the old, represented the majority of the dominant party to the exclusion of the discontented minority of that party, and the latter were still forced to choose between abiding by the decisions of the majority in the party caucus or going over to the opposition.

The reorganized committee on rules exercises the same power as its predecessor. A specimen of its special orders is that governing the debate on the final passage of the Postal Savings Banks Bill (June 7, 1911).

Resolved, that immediately upon the adoption of this resolution, it shall be in order to consider in the House Senate Bill 5876. . . . Eight hours shall be allowed for general debate, which shall be confined to the bill, one half of said time to be controlled by the chairman of the committee on Postoffices and Post-roads, and one half by the senior minority member of said committee. At the conclusion of the general debate, it shall be in order for the minority to offer an amendment to strike out all after the word 'that' . . . and insert a new text. Thereupon the previous question shall be considered as ordered on the minority's amendment . . . , and on the bill to final passage, without delay, intervening motion, or appeal, except a motion to recommit.

In this instance the majority party declined to permit any debate under the five-minute rule (*see*), or amendments to particular clauses of the bill. In fact, the real debate on that bill took place in the caucus of the majority party, and amendments clause by clause were made there. The minority party was permitted only to bring forward a complete alternative bill of its own, and the debate was confined to general principles in order that the details of the measure as determined in the majority party caucus might not be altered. Thus the recent reform of the House rules, though depriving the majority party, acting either through the Speaker or through the committee on rules, of the power to prevent the consideration by the House of non-contentious business, has not diminished its power to control the action of the House on partisan measures. The rules still provide special privileges for party leaders, and congressional government remains government through parties. It was expected that the rules would be extensively revised by the Democratic Sixty-third Congress but no material changes were made during the first two sessions (to 1914).

See COMMITTEE SYSTEM; CONGRESS; HOUSE OF REPRESENTATIVES; INSURGENTS IN CONGRESS; RULES OF LEGISLATIVE BODIES; SPEAKER.

References: *Senate Manual* (1909); *Precedents of the Senate* (1909); A. C. Hinds, *Rules of the House of Representatives with a Digest of the Practice* (1909), *Parliamentary Precedents of the House of Representatives* (1909); C. A. Beard, *American Government and Politics* (1910), ch. xiv; A. B. Hart, *Actual Government* (1908), ch. xiv; P. S. Reinsch, *American Legislatures and Legislative Methods* (1907), ch. ii; *Readings on Am. Fed. Government* (1909), ch. vii; L. G. McConachie, *Congressional Committees* (1898), chs. iv–vi; M. P. Follett, *The Speaker of the House of Representatives* (1896), chs. vi–x; W. Wilson, *Congressional Government* (1st ed., 1885), chs. ii, iii; *Congressional Record*, *passim*.
A. N. HOLCOMBE.

RULES OF LEGISLATIVE BODIES

Purpose of Rules of Procedure.—The federal and state constitutions provide that each house of Congress and of the several state legislatures shall determine the rules of its proceedings. These rules, however, are subject to limitations imposed by the several constitutions, and to interpretation by the presiding officers. Hence the law of procedure in American legislative bodies is composed of constitutional precepts, legislative regulations, and, when these are silent or of doubtful application, official rulings. These last, as well as many of the formal rules, were originally founded upon the practice of the English House of Commons, "the model," so Jefferson tells us in the preface to his *Manual of Parliamentary Practice*, "which we have all studied." "Its rules," Jefferson declared, "are probably as wisely constructed for governing the debates of a deliberative body, and obtaining its true sense, as any which can become known to us," and thereupon, with the acquiescence of the United States Senate over which Jefferson then presided, he prepared his Manual, "a sketch, which those who come after me will successively correct and fill up till a code of rules shall be formed for the use of the Senate, the effects of which may be accuracy in business, economy of time, order, uniformity, and impartiality." This is the best statement of the purpose of rules of procedure in legislative bodies. Jefferson was equally alive to certain other advantages of orderly rules of procedure, observing that "these forms as instituted by our ancestors, operated as a check and control on the actions of the majority, and were, in many instances, a shelter and protection to the minority . . . And whether these forms be in all cases the most rational or not, is really not of so great importance. It is much more material that there should be a rule to go by, than what that rule is; that there may be uniformity of proceeding in business, not subject to the caprice of the Speaker or capriciousness of the [majority of] members."

Jefferson's *Manual* was at once accepted as the standard digest of parliamentary law in the United States. It has always remained the chief reliance of presiding officers in the United States Senate, and long served as a model for the guidance of the legislative bodies of the states. It was formally adopted by the federal House of Representatives in 1837, but has never been closely followed by the House and is now in large part superseded (see RULES OF CONGRESS). In American legislative bodies the most important questions of procedure are generally determined by constitutional precepts. These may be conveniently found in F. J. Stimson, *Federal and State*

Constitutions of the United States (1908). In municipal legislatures similar questions are often determined by the municipal charter or general statute of municipal corporations. All legislative bodies, however, possess a more or less extensive set of rules of their own. The rules of the Boston city council (1911) are thirty-two in number and deal with the president, motions, readings, reconsideration, conduct of members, standing committees, order of business, report of committees, and some minor matters. The rules of the Massachusetts House of Representatives (1911) are one hundred and five in number and deal with a somewhat wider range of topics. The former rules imply, and the latter expressly state that "the rules of parliamentary practice shall govern . . . in all cases to which they are applicable, and in which they are not inconsistent with" the rules of the house.

Order of Business; Conduct of Debate.—In practice the most important rules of legislative bodies are those dealing with the order of business and the conduct of debate. The greater the number of members in a legislative body, the quantity and variety of business brought before it, and the interest of the public in its proceedings, the more complicated does the order of business become, and the more restricted the privilege of debate. In the Boston city council, with nine members and fewer powers than are ordinarily lodged in municipal councils, there are no restrictions upon debate, except that two-thirds of the members may at any time suspend the rules and then terminate a debate. The order of business is as follows: (1) communications from the mayor; (2) presentation of petitions, memorials, and remonstrances; (3) hearings; (4) unfinished business of preceding meetings; (5) orders of notice of hearings; (6) reports of city officers; (7) reports of committees; (8) motions, orders, and resolutions. All business can be easily despatched in regular order, and each member has an equal opportunity to address the council and bring business before it.

In the Massachusetts House of Representatives, with two hundred and forty members and the usual powers of the lower house of a state legislature, the rules are more complicated. No member may speak twice to the same question until all who wish to speak once have done so, and debate may be closed either immediately or at a specified time by a majority of those present. In practice, however, these motions are not often used for partisan purposes, and the absence of a limit to the duration of a session permits much freedom of debate. The regular order of business

RULES OF STATE LEGISLATURES

is: (1) the consideration of petitions and similar papers; (2) the reports of committees; (3) the orders of the day. There is no classification of business, and but a single calendar (*see*) upon which all bills and resolutions are placed in order. Those to which there is no objection are first disposed of, contentious matter coming next in order, and all unfinished business is placed at the head of the orders for the next day. No matter which has been duly placed in the orders of the day may be discharged therefrom or considered under the rules out of the regular order. There are no privileged committees, and the rule providing for a regular order may not be changed without the consent of four-fifths of the members present. Thus non-partisan measures are accorded the same privileges as partisan measures; and a partisan majority under the rules possesses no advantage over a minority except that of limiting debate, a power not often employed for partisan purposes. In the states generally there are similar rules of procedure which in practice more or less effectively secure the individual members against "the caprice of the Speaker or captiousness of the [majority of] members." In some states, however, as in New York, the pressure of business and the conflict of parties have developed a more complicated procedure, a development which has culminated in the federal House of Representatives (*see* RULES OF CONGRESS).

See CALENDAR OF LEGISLATIVE BODIES; CLOSURE; CONGRESS; HOUSE OF REPRESENTATIVES; PARLIAMENTARY LAW; PREVIOUS QUESTION; RULES OF CONGRESS; SPEAKER; STATE LEGISLATURE.

References: T. Jefferson, *Manual of Parliamentary Practice* (many editions); U. S. Senate, *Manual*, 1909; House, *Manual* (published by each Congress); L. S. Cushing, *Lex Parliamentaria: The Law and Practice of Legislative Assemblies* (1874); L. S. Cushing, *Rules of Proceeding in Deliberative Assemblies* (1877); H. M. Robert, *Pocket Manual of Rules of Order for Deliberative Assemblies* (1876); W. S. Robinson, *Warrington's Manual for the Information of Officers and Members of Legislatures, Conventions, Societies, etc.* (1875); O. M. Wilson, *Digest of Parliamentary Law* (1869); G. T. Fish, *American Manual of Parliamentary Law* (1880). A. N. HOLCOMBE.

RULES OF STATE LEGISLATURES. The general principle in states as in Congress is that each house shall make rules for the conduct of its own business; but the state legislatures are much hedged about by constitutional provisions intended to secure deliberation, publicity and the right of the minority to be heard. Most states, for example, provide that the subject of each bill shall be clearly set forth in its title; and that no bill shall be passed till after a report of a committee. Similar prescriptions are the reading of bills

in full; reading on several different days; the call of ayes and nays by a stated number or proportion of the members. Precautions are taken to be sure that a bill which goes upon the statute book has actually passed through both houses in the form in which it is finally printed.

Nevertheless a large field for local discretion is left, and codes of rules grow up which are perpetuated from year to year, by the practice of each new house adopting the rules of the preceding house till otherwise ordered. The rules are commonly printed in a handbook, together with other information.

All American legislative bodies except the federal Senate have a powerful presiding officer: the speaker in the lower house (invariably chosen by that house); and a president chosen in the upper house, except where the lieutenant-governor is *ex officio* presiding officer of the senate. The speaker always, and the presiding officer of the senate usually, appoints the committees. In most legislatures the rules permit the committees to smother legislation simply by failing to report upon it. The chairmen of committees are apt to exercise their own discretion about calling committees together upon critical business.

The rules are, like those of Congress, an elaborate and complicated code nominally intended to provide for keeping order, giving members a fair chance of debate, and bringing up for decision those questions in which the house is most interested. They include usually a limitation on the length or number of speeches by members, and provide for the previous question. Under this system the speaker of the lower house has practically a veto on all bills presented, and a combination of the chairmen of the principal committees can also hang up legislation. Where there is a state boss of the party dominant in a legislature, he takes part and decides which questions shall or shall not be pressed; but his hand, and that of the legislature can be forced in many cases by a determined governor, who appeals to the people to put a pressure on their legislature.

The rules of legislative bodies can be suspended by an easy process, such as a two-thirds vote of members present, and that method is adopted for rushing legislation through in the last hours of a session. In addition the rules of the house and the constitutional provisions as to the reading of bills and other details can be, and frequently are, set aside by the principle of unanimous consent. By that choice it is assumed, unless some member objects, that a quorum is present; that a vote has been taken; that a bill has been read in full; that the text has been perfected. A combination of members who despair otherwise of passing bills in which they are interested (often meritorious bills) is formed to discourage any objection to any one of a group of pending measures.

Rules are frequently revised; sometimes to make them clearer, quite as often in order to give larger power to the few men inside the legislative machinery who understand and control it.

See COMMITTEE SYSTEM IN THE UNITED STATES; DEBATES IN LEGISLATURES; EXPULSION OF MEMBERS; FILIBUSTERING IN LEGISLATION; INVESTIGATIONS, LEGISLATIVE; LEGISLATION; LEGISLATURE AND LEGISLATIVE REFORM; ORDER OF BUSINESS; REPORTS OF COMMITTEES; STATE LEGISLATURE.

References: P. S. Reinsch, *Am. Legislatures* (1907), chs. iv-vi; F. J. Stimson, *Fed. and State Constitutions* (1908), §§ 300-304.

A. B. HART.

RUM, ROMANISM AND REBELLION. A phrase characterizing the Democratic party, used by Rev. Samuel D. Burchard, spokesman of a delegation of Protestant clergymen, October 30, 1884, in an address in New York City, to James G. Blaine (*see*), Republican presidential candidate. The alliteration was immediately used with great effect by Democrats to win back the Irish supporters from Mr. Blaine.

O. C. H.

RURAL DISTRICT COUNCIL. By the Local Government Act of 1894 (57 and 58 Victoria, C. 73) such portions of each English county as were not comprised within boroughs or urban districts (*see* LOCAL GOVERNMENT IN ENGLAND) were organized into rural districts. These rural districts are made up of groups of parishes (*see* PARISH COUNCIL IN ENGLAND) and are usually coterminous with the poor law unions (*see* POOR LAW GUARDIANS IN ENGLAND). There are at present 675 rural districts in England and Wales. The administrative organ of the rural district is an unpaid council, the size of which is fixed by the authorities of the county, and the members of which are elected for a three-year term, one third retiring annually unless the county council allows the whole membership to retire every third year. The qualifications for voting are the same as in urban districts (*see* URBAN DISTRICT COUNCIL), and women are eligible to election as rural district councillors. The rural district council has powers which relate chiefly to highways and sanitation; but its authority in these fields is somewhat more restricted than that of the urban district council. In the matter of highways it exercises jurisdiction over subsidiary roads only; main thoroughfares are under the control of the county council. The rural district council has, however, jurisdiction over both main and subsidiary drainage; it has charge of rural hospitals; and it is entrusted with the care of the local water supply. Some of its duties may be, and frequently are, delegated to the parish councils (*see* PARISH COUNCIL). The council levies no special

rate. General expenses are defrayed out of the proceeds of the poor rate (*see* POOR LAW GUARDIANS) and expenses which are properly chargeable to individual parishes are levied upon them. Rural district administration is closely supervised by the County Council and the Local Government Board. By concurrent action of these two authorities a rural district may be converted into an urban district and the jurisdiction of its council thereby augmented. See DISTRICTS, RURAL, ADMINISTRATIVE; LOCAL GOVERNMENT IN ENGLAND; VILLAGES. References: J. Redlich and F. W. Hirst, *Local Government in England* (1903), II, 119-144; Robert Donald, *Municipal Year Book of the United Kingdom* (1910), 353-372; Local Government Board, *Annual Reports*.

W. B. MUNRO.

RURAL DIVISIONS, MINOR. Counties in the southern and far western states and towns and townships in the north Atlantic and north central states are divided into smaller districts for special purposes of local administration, such as schools, roads, elections and petty justice. In most states, school districts are regularly incorporated, with their own power of taxation; these and often other unincorporated districts elect local officials; but some districts are purely administrative subdivisions of the larger areas. In southern and far western states county districts are generally larger than the subdistricts of towns or townships in other states; and to some extent take the place of a system of township government.

School Districts.—The subdivision of towns and townships into petty school districts was formerly the general rule in the north Atlantic and north central states. The more recent tendency has been to make the town the primary unit for school administration; but in Connecticut, Rhode Island, New York, Michigan, Illinois, Kansas and Nebraska small school districts still prevail; and in Wisconsin, Minnesota, and North and South Dakota a school district may be either an entire township or a subdivision of a township.

In the southern and far western states, counties are regularly divided into school districts; and in most cases these districts are distinct municipal corporations. But in the southern states bordering on the Atlantic and in Louisiana, the district officers are appointed by the county school officials; and in some of the far western states (Colorado and California) school taxes are levied by the county boards.

Road Districts.—Country roads in the United States have for the most part been constructed and repaired by a labor or poll tax, under the direction of overseers of road districts into which the towns and counties have been divided. These district overseers have often been elected by the road districts; but with increased attention to the building of improved roads the tendency is to use larger

areas. In most of the north Atlantic and north central states local road officials are usually town officers, in some states district overseers being appointed by the town; and in many of those states, the more important roads are now looked after by county and state officers. In the southern and far western states, district road officers are usually appointed by county officials; but in Idaho and Washington road overseers are elected in each district.

Judicial Districts.—In the southern and far western states counties are regularly divided into districts for the election of justices of the peace; and in some states these are also the districts for electing members of the county boards. In Virginia, West Virginia and Kentucky, districts are called magisterial districts; in Tennessee, civil districts; in California, judicial townships.

These judicial districts are sometimes used as election precincts; but in some states election precincts are separately established. Some of the large towns and townships of the north Atlantic and north central states are divided into election precincts, usually where there are two or more villages in the same town.

Rural Districts for Other Purposes.—These are sometimes established in particular localities, for carrying out public works which affect several of the regular local districts. Such are drainage districts in Illinois, and levee districts in the southern Mississippi Valley states.

See **BOROUGH; DISTRICTS, RURAL, ADMINISTRATIVE; FINANCE, LOCAL SYSTEMS OF; HUNDRED; RIDING; SCHOOL DISTRICT; VILLAGES, INCORPORATED.**

Reference: J. A. Fairlie, *Government in Counties, Towns and Villages* (1906), ch. x.

JOHN A. FAIRLIE.

RURAL FREE DELIVERY. The establishment of a comprehensive system for the free delivery of mail in rural districts constitutes one of the latest and most important efforts to increase the facilities and extend the benefits of the postal service. Free delivery in the cities was begun in 1863 and now prevails in all, or practically all, cities and towns having postal receipts of not less than \$10,000 annually and meeting certain other conditions in respect to paved sidewalks and numbered houses. Rural free delivery, after numerous experiments, was definitely established in 1902. The system was begun in a small way but has been rapidly extended until, according to the report of the Postmaster General for 1910, this service had, on June 30 of that year, in operation on 41,079 routes, required the services of 40,997 carriers and entailed expenditures during the preceding year of \$36,844,965.61. The Postmaster General reports that, next to the low postage rate on second class mail, this service is responsible for the principal inroad into the profits of the postal

system. He adds, however, that this expense is justifiable on account of the undoubted services rendered. The establishment of routes is wholly within the discretion of the Postmaster General. Action is usually taken upon application made to him by persons interested or by the local postmaster. Such application must be supported by a petition signed by at least 150 persons representing at least 75 per cent of the families living on the proposed route. The rural carriers are selected through the Civil Service Commission. See **PARCEL POST; POSTAL SYSTEM OF THE UNITED STATES.** Reference: U. S. Postmaster General, *Annual Reports, Official Postal Guide* (annual).
W. F. WILLOUGHBY.

RURAL POLICE. See **POLICE, RURAL.**

RUSH, BENJAMIN. Benjamin Rush (1745–1813) was born at Byberry, Pa., December 24, 1745. He studied medicine at Philadelphia, and in 1768 graduated in medicine at the University of Edinburgh. He returned to the United States in 1769 and settled at Philadelphia, eventually taking the highest rank in his profession. He took an active part in the early Revolutionary movements, was a member of the provisional congress of Pennsylvania, and in 1775–76 surgeon to the Pennsylvania navy. In July, 1776, he was elected to Congress, and signed the Declaration of Independence. In 1777 he was appointed surgeon-general, and shortly physician-general, of the middle department, and saw active service, but resigned in 1778 on account of some difference with Washington, and as a protest against the management of hospital stores. He interested himself in the establishment of public schools, and, in 1783, of Dickinson College. He was a member of the convention that ratified the Federal Constitution in 1787, and of the state constitutional convention. In 1790 he succeeded Franklin as president of the Pennsylvania Society for the Abolition of Slavery. From 1799 until his death he was treasurer of the United States mint. He died at Philadelphia, April 19, 1813. References: "Excerpts from the Papers of Dr. Benjamin Rush" in *Penn. Mag. of Hist. and Biography*, XXIX (1905); M. Farland, *Records of the Federal Convention* (1911); J. T. Scharf and T. Westcott, *Hist. of Philadelphia* (1884).
W. MACD.

RUSSELL, WILLIAM EUSTIS. William E. Russell (1857–1896) was born at Cambridge, Massachusetts, January 6, 1857. In 1880 he was admitted to the bar, and the next year began his political life as a member of the Cambridge common council, going on in 1883–84 to membership in the board of aldermen. From 1885 to 1888 he was mayor of Cambridge. In 1888 and 1889 he was the Democratic candidate for governor, but was defeated. He was elected governor in 1891, however, and served

three years with marked independence and popularity, taking rank as one of the ablest young Democrats in the country. In 1894 he was appointed a member of the United States board of Indian commissioners. He strongly opposed the free silver movement, and in the Democratic national convention of 1896 did his utmost to secure the insertion of a gold plank in the platform. He died suddenly at Little Palos, Quebec, July 16, 1896. See DEMOCRATIC PARTY. References: C. E. Norton, "Public Life and Service of William E. Russell" in *Harvard Graduates' Mag.*, V (1896), 177-194; C. T. Russell, Jr., *Speeches and Addresses of William E. Russell* (1894). W. MACD.

RUSSIA, DIPLOMATIC RELATIONS WITH. Traditional Friendship.—The relations between the United States and Russia have been in the main cordial, but not intimate; the two countries have had little to hope or fear from one another; their mutual interest has been platonic. During the American Revolution, the Empress Catherine II happened just then to be on bad terms with England, but she had no sympathy with rebels, and let the first American envoy, Francis Dana, cool his heels for two years in St. Petersburg without granting him an audience. Alexander I on a number of occasions showed himself more friendly, and he exchanged several letters with Thomas Jefferson.

The progress of Russian colonization along the northwestern coast of North America, and particularly the edict of September 7, 1821, proclaiming Russian dominion over the north Pacific, excited alarm at Washington, which took the form of a vigorous protest and was one of the causes that led to the enunciation of the Monroe Doctrine (*see*). The conventions of 1824 and 1825, by which Russia gave up further territorial extension in this region, may be attributed, however, to English rather than to American opposition.

The abandonment of later attempts at settlement in Hawaii and at Fort Ross in California removed further possible sources of friction; and, by the sale of all her American territory in 1867 Russia withdrew definitely from the western hemisphere (*see* ALASKA, ANNEXATION OF). She was not in a position where she could hope to defend such distant possessions against serious attack, or to develop their resources for a long time to come.

For a generation after the Civil War the relations between Russia and the United States were characterized by a friendship that became traditional. From the beginning of the struggle, Russia adopted an attitude of unequivocal friendliness towards the North. Her despatch of a fleet into American waters in 1863, though not, necessarily, with the determination of rendering aid in case of need, was none the less, a significant demonstration of good will. Congress recognized this good will by

sending Gustavus V. Fox on a special embassy to St. Petersburg in 1866, to congratulate Alexander II on his escape from an attempt at assassination.

Treatment of Subjects.—In the last decade of the nineteenth century American sentiment towards the Russian government, underwent a gradual change. The harshness of the Siberian exile system, the increasingly reactionary spirit of the authorities, the severity of treatment, not to say the persecution, of the Baltic Province Germans, the Poles, the Finns, and above all of the Jews in the empire was sharply condemned by liberal opinion all over the world (*see* JEWISH QUESTIONS IN DIPLOMACY). The immigration of great numbers of these people into the United States, bringing with them the tale of their woes, affected American public opinion as did the growing and anti-Russian influence of the Jews in the American press. In 1903 the massacre of Kishinev led to the unusual step of an official inquiry from Washington whether the government at St. Petersburg would consent to receive a petition from the American Jews. This was of course refused, but, by the publicity thus given to the whole matter, Secretary Hay accomplished his object.

Manchuria.—The first serious divergence of interests, between Russia and the United States was brought about by the events in the Far East. The threatened break up of China elicited from Secretary Hay his famous circular of September 6, 1899, on the Open Door (*see*) which, though received with qualified assent at St. Petersburg, was regarded as being in a great measure aimed at Russia. Her occupation of Manchuria in 1900 did not appear favorable to American trade and other interests, for by this time she too had become a manufacturing country anxious to further her industries and ready to discriminate in their behalf when it was possible. Although these industries were not yet, save in the exportation of petroleum, in a position to compete seriously with those of America, they might some day, especially if favored by a tariff. The government at Washington therefore politely but insistently reminded St. Petersburg of its promise that Manchuria should be evacuated, with the result of keeping the question open but of increasing mutual irritation.

Japan.—When, finally, war broke out between Russia and Japan, public opinion in the United States expressed itself unmistakably in favor of the Japanese, to the anger and, indeed, to the astonishment of many Russians who remembered the former traditions of friendship and had not realized how much these had been weakened by recent events. Throughout the struggle the Americans applauded the Japanese victories, and the administration at Washington sometimes adopted a sharp tone with St. Petersburg in discussing questions of neutrality. It is true that

the war itself was never popular in Russia, least of all among the liberals, and the bitterness against the United States was soon softened by the successful effort of President Roosevelt to bring about peace between the combatants.

On their side, the Americans, as their enthusiasm about Japan cooled down, began to take a kindlier view of the Russians whom they no longer regarded as their chief rivals, not to say opponents, in the Far East. They sympathized warmly with the reform and even with the revolutionary movements of the next two years in Russia, although they were shocked at some of the accompanying excesses. For the most part they condemned the conservative reaction that followed, but were not keenly interested in Russian internal affairs.

Causes of Friction.—Of late, also, though there has been no open clash between the two countries their policies in the Far East have again been divergent. The effect of America's continued interest in Manchuria, and particularly the propositions to internationalize the railways there and to build a new line from Chungchow to Aigun, have been interpreted by the Russians as an attempt to oust them from the region. This has, accordingly, led them to draw closer to Japan, though Russian liberals would have preferred an agreement with the United States. The Chinese revolution of 1911, by endangering the integrity of that empire, tends to facilitate an encroachment on the part of Russia in Manchuria and Mongolia which it has been the policy of the United States to prevent if possible. The note of Secretary Knox of February 3, 1912, would seem to be chiefly directed at Russia. In another part of Asia, in Persia, though most Americans did not feel that their government could interfere in behalf of Commissioner Shuster when, in 1911, he came into conflict with the Russians there and was forced by them to leave the country, nevertheless the incident was not of a nature to promote good feeling between Washington and St. Petersburg.

American Jews.—More serious still is the dispute about the non-admission of American Jews into the Russian empire, a quarrel which after simmering for many years led finally to the abrogation by President Taft of the Russian-American commercial treaty of 1832. Russia has never officially abandoned the theory of perpetual allegiance and has disliked permitting naturalized American citizens who were born her subjects to return even for a short visit to their former homes. There have been many discussions between the two countries on this point. Also Russia, like the United States, though not adopting the same

standards, has claimed and exercised the right of excluding from her dominions such foreigners as she chooses. The issue is not one on which the two disputants are at all likely to come to blows, but it is not one that lends itself well to arbitration or is easy to settle by compromise; nor is there much prospect that either party will soon recede from its position. In 1914 no progress had been made towards the drafting of another treaty.

See ALASKA, ANNEXATION OF; COMMERCIAL POLICY OF THE UNITED STATES; JEWISH QUESTIONS IN DIPLOMACY; NEAR EAST; OPEN DOOR; PROTECTION TO AMERICAN CITIZENS ABROAD.

References: A. C. Coolidge, *U. S. as a World Power* (1908), ch. xii; J. C. Hildt, *Early Diplomatic Negotiations of the U. S. and Russia* (1903); Henry Bonfils, *Droit International Public* (1898), § 441; *Cong. Record*, 62 Cong., 2 Sess., 493 *et seq.* (Senate debate on abrogation of the Treaty of 1832); J. B. Moore, *Digest of Int. Law* (1906), I, 891, 908, II, 887, III, 622, IV, 615, V, 312, 842, 1004, VI, 7.

A. C. COOLIDGE.

RUTLEDGE, JOHN. John Rutledge was born in Charleston, S. C., 1739, and died July 23, 1800. At the time of the Stamp Act Congress, he was a noted lawyer in his native city and was chosen a delegate to that Congress. In New York, as at home, he fearlessly advocated resistance to oppression and colonial union. Largely through his influence, the South Carolina delegates to the first Continental Congress were sent without definite instructions. In that assembly, he was recognized for his ability as an orator. He was chairman of the committee which drafted a constitution for South Carolina in 1776 and was during the same year elected governor. When Charleston was captured in 1780, he joined the army of General Greene. In 1782, having resigned the office of governor, he re-entered Congress. As a member of the Federal Convention, he favored the assumption of state debts by the national government; opposed the prohibition of the slave trade and had especial influence on the plan for the judiciary. When the new government was organized he was nominated one of the judges of the Supreme Court, but preferred to accept the office of chief justice of South Carolina. He was appointed Chief Justice of the federal Supreme Court in 1795, he presided at one session, but the Senate rejected the nomination when it was found that his mental powers were weakened. See CONTINENTAL CONGRESS; FEDERAL CONVENTION; SOUTH CAROLINA. Reference: Edward McCready, *Hist. of South Carolina* (1901).
J. A. J.

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SAFE DEPOSIT COMPANIES. With the growth of corporations and the consequent issue of securities—stocks and bonds—held by private individuals, there has been an increasing need of places in which the securities may be safely kept. As national banks under the limited powers granted by the national bank act cannot engage in this business, other forms of financial institutions have undertaken it. Companies have been organized with this sole object in view, but more frequently in recent years trust companies have established departments with safety deposit vaults for this service. Valuables of all kinds are received and cared for. See **TRUST COMPANIES**. Reference: A. K. Fiske, *Modern Bank* (1905), 255–260.

D. R. D.

ST. CLAIR, ARTHUR. Arthur St. Clair (1734–1818) was born at Thurso, Scotland, in 1734. In 1757 he entered the British army, and served under Amherst at Louisburg in 1758, and under Wolfe at Quebec in 1759. In 1762 he resigned his commission, and in 1764 settled in Pennsylvania. In the course of the next ten years he held a number of local offices. In July, 1775, he was commissioned a colonel in the American army, and in 1776 served with Sullivan's Canadian expedition. The same year he was made brigadier-general, served under Washington in New Jersey, and the next year, with the rank of major-general, succeeded Gates in command of Ticonderoga. On the approach of Burgoyne he evacuated the fort without attempt at resistance, but a court-martial in 1778 acquitted him of blame. He remained in more or less active service throughout the war, but held no important command. In 1783 he became a member of the Pennsylvania council of censors, and from 1785 to 1787 was a delegate in Congress, and in 1787 president of that body. In 1789 he was appointed governor of the Northwest Territory, which office he held until 1802; but his disastrous defeat by the Indians, November 4, 1791, was a blow to his military reputation from which he never recovered. He quarreled with the people of the territory and was finally removed by Jefferson in 1802. He died at Greensburg, Pa., August 31, 1818. See **NORTHWEST TERRITORY**. References: W. H. Smith, *St. Clair Papers: Life and Public Services of Arthur St. Clair* (1882); J. Burnet, *Early Settlement of the Northwestern Territory* (1847); B. A. Hinsdale, *Old Northwest* (2d ed., 1899). W. MACD.

ST. LOUIS. Establishment; Charters.—St. Louis was settled in February, 1764. It was incorporated November 9, 1809, and continued as a town until December 9, 1822, when it was incorporated as a city. The charter granted in 1822 was amended by the legislature in 1831, 1833 and 1835. In the latter year there was created a council consisting of two branches "the aldermen and delegates." In 1859 the two-house plan was abolished and a council consisting of two members from each of the ten wards was created, which continued to be the legislative body until 1876 when the city and county, acting under authority of sections 20 to 25 inclusive of Article ix of the constitution of Missouri of 1875, adopted "the Scheme for the separation of the Governments of St. Louis City and County," reorganized the government of the county and adjusted the relations between the city and county making them independent of each other, greatly enlarging the territorial limits of the city. Thus St. Louis became what is unique in American municipal government, a separate and distinct political division of the state. A board of thirteen freeholders was elected who submitted to the qualified voters of the city a special charter which, with amendments, is the present organic law of St. Louis, subject, however, to the laws and constitution of the state.

Character of Charters (1875).—The charter was drafted at a time when the attention of the whole country had been arrested by the shameful and extravagant expenditure of public money, and the reckless, not to say criminal, conduct of public affairs, and the then condition of the country is faithfully reflected in the charter. It is essentially an instrument of "checks and balances," of "appointment and approval," of "commission and confirmation," and it can be broadly stated that there is not an important act to be performed by any official that does not require the approval of some other official to make that act operative. The charter provided for a general election to be held on the first Tuesday of April, 1877, and every four years thereafter, divided the city into twenty-eight wards, the boundaries of which can only be changed at intervals of five years by the municipal assembly, created the municipal assembly composed of a council consisting of twelve members and a president elected at large for a term of four years, and a house of delegates consisting of one member from each ward elected for two years by the voters of the

SALARIES OF PUBLIC OFFICIALS

several wards. All legislative power is vested in the assembly with the right of veto power in the mayor. The assembly is also vested with the power "to assess, levy and collect all taxes for general and special purposes," "to borrow and appropriate money," but is limited in its appropriations to the taxes collected during any one fiscal year, "to pass all such ordinances, not inconsistent with the provisions of the charter or the laws of the State," and the council may remove any elected officer by a two-thirds vote of all the members. The charter provides for the election of the following officers, all of whom are elected for a term of four years, *viz.*: mayor, comptroller, auditor, treasurer, register, inspector of weights and measures, marshal, president of board of public improvements and president of board of assessors, and also the following officers who, by virtue of legislative enactment perform state as well as city functions, collector, recorder of deeds, sheriff, coroner, public administrator, and license collector.

Mayor.—The mayor, at the beginning of the third year of his term, subject to confirmation by the council, appoints a large number of officers "who shall hold their office for four years": Among them city counsellor and assistants, ten district assessors, health commissioner, five members of the hospital board, superintendent of fire and police telegraph, commissioner of supplies. He also appoints the following commissioners who are designated the heads of their several departments, *viz.*: a street commissioner, a sewer commissioner, a harbor and wharf commissioner, a park commissioner, a water commissioner, who, together with the president of the board of public improvements, constitute the board of public improvements. The mayor is charged with executive and administrative duties, has a general supervisory control of the city and all departments of the city government. Appointments made by heads of departments are subject to his approval, and he can remove any appointive officer or subordinate "for cause."

Boards.—The board of public improvements has executive and administrative powers, and the president of the board has general supervision over the departments of the other commissioners constituting the board of public improvements. All ordinances for the prosecution of public work and improvements must originate with the board, the Assembly being prohibited from amending such ordinances in any way, having the right, however, either to adopt or reject them.

The charter provides in detail for a sinking fund which must always be kept separate and distinct from other funds; provides that no salary shall exceed the sum of \$5,000.00, creates a board of equalization composed of the president of the board of assessors and four members appointed by the judges of the circuit court of the city of St. Louis, which board

has power "to adjust, correct and equalize the valuation of all property in the city," provides for the payment of a metropolitan system of police created by legislative enactment. The control and management of the force is lodged in a board of police commissioners composed of five members, four of whom are appointed by the governor, the Mayor being *ex officio* a member.

In 1893 the legislature created the office of excise commissioner who is appointed by the governor, and who has arbitrary power in the issuing and revoking of dram-shop licenses.

In 1895 the Board of Election Commissioners was created.

The legislature in 1897 created the board of education, which is a municipal corporation separate and distinct from the city of St. Louis and has complete control of the public school system of the city.

A board of freeholders was elected in April, 1909, to draft and submit a new charter, and after eighteen months submitted in December, 1910, a charter which provided for a single house of legislation, a limited referendum, recall of officials after two years, civil service and a consolidation of many departments which experience had demonstrated should be consolidated. This charter was defeated in January, 1911. In April, 1913, a new board of freeholders was elected to prepare and submit a charter, which board has not yet made any report.

See CHARTERS, MUNICIPAL; MUNICIPAL GOVERNMENT.

References: D. F. Wilcox, *Great Cities in America* (1910), 308-345; W. F. Woerner, *Revised Code of St. Louis* (1907); *Proposed Charter of City of St. Louis* (1910).

SAMUEL B. MCPHEETERS.

SALARIES OF PUBLIC OFFICIALS. The term salary is frequently, although incorrectly, applied to all forms of financial compensation provided by the public for an official; but strictly speaking, a salary should be distinguished from a *per diem* allowance and from fees. A salary is a stated sum fixed by law to be paid to a public officer in compensation for his services. Acceptance of office does not in itself entitle the officer to compensation, for public service is not necessarily paid. But if the law attaches a salary to an office, acceptance of that office entitles the holder to whatever compensation is provided. Compensation may be in the form of a fixed annual salary, a *per diem* allowance, or fees (see FEES AND FEE SYSTEM). When the duties of an officer are reasonably constant, a salary is the fairest means of remuneration both for the officer and for the public; but when the demands made upon him vary widely at different times, a *per diem* allowance or a system of fees by which the remuneration is proportioned to the work involved is the more equit-

able. The Constitution provides that the President, the members of Congress and the judges of the federal courts shall receive a compensation for their services, but under different conditions. The President's compensation may be neither increased nor diminished during the term for which he was elected; the judges' compensation may not be diminished during their continuance in office, while as to the increase or reduction of the compensation of members of Congress, the Constitution is silent (Art. I, Sec. VI, ¶ 1, 2, II, Sec. I, ¶ 7, III, ¶ 1). The latter however may not accept any civil office which has been created or the emoluments of which have been increased during the term for which they were elected. A similar provision is found in the laws of most of the states.

In many countries a large part of the work of government is carried on by officials who are not paid. Members of the British Parliament served without pay; but a recent act provides for the payment of salaries to members of the Commons. In the United States payment of officers is almost universal. A few boards such as the federal board of Indian Commissioners and the school boards in some cities are the most conspicuous exceptions. While payment is so general, the amount paid to those officials upon whom the greatest responsibilities are placed and in whom the greatest ability is required is notoriously inadequate, as plainly appears when compared with the amounts paid similar officials in other countries or earned by the same persons when in private employment. The Secretary of the Treasury, for instance, should be a financier of repute in whose judgment the great business interests can have confidence, for his decisions may have far-reaching effects upon the credit of the government and the commerce of the country. He is paid \$12,000 annually. The British chancellor of the exchequer receives twice that amount, an official residence, and a pension, and several American bank presidents receive salaries six or eight times as large as that of the head of the Treasury Department. The salaries of the federal judges present an even wider discrepancy as compared with their earning power at the bar. In the states the meagreness of the compensation paid the most

important officials is glaring. The earnings of a bookkeeper or a salesman are larger than the salaries of several of the governors. As late as 1897 the people of the rich state of Michigan voted that \$800 was sufficient compensation for their attorney general.

But if the scale of salaries of the most responsible officers is niggardly, that of subordinate employees is extravagantly generous. The compensation of the unskilled laborers and clerks in the service of the Federal Government and in that of many of the states is far greater than the same persons could earn in private employment, and the number of such persons is so great that the total charge to the public is enormous. The government expends enough money in salaries to command the services of men of eminent ability in all responsible posts, at the same time paying adequate salaries to persons in merely clerical positions. In general it has been able to enlist the services of able men, but they have often accepted office at a sacrifice, and unless they were men of wealth, they were obliged to retire after a few years. It is a matter of common knowledge that certain posts especially in the diplomatic service entail expenses so much in excess of the salary paid that they can be accepted only by men of wealth. A recent Secretary of State who did not maintain an elaborate establishment said that his four years in office cost him \$40,000 in excess of the salary which he received.

There is a general drift toward higher salaries, but the people still regard increases of salary with suspicion. It is a conspicuous fact that salaries fixed by legislatures are higher than those fixed by the people in their constitutions. Constitutional amendments providing for salary increases encounter much opposition and are quite likely to be defeated. In the decade 1899-1908, 31 such amendments were submitted, 24 of which were rejected.

See COST OF GOVERNMENT IN THE UNITED STATES; EXPENDITURES, FEDERAL; EXPENDITURES, STATE AND LOCAL; FEES AND FEE SYSTEM.

References: S. E. Baldwin, *Modern Political Institutions* (1898), ch. xi; *Congressional Record*, XLII, Pt. 6, 5575; J. Bryce, *American Commonwealth* (4th ed., 1910), I, 195-197.

LAWRENCE B. EVANS.

SALARIES, TABLES OF

National Government: Executive.—President of the United States, \$75,000; Vice-President, \$12,000; Secretary to the President, \$6,000 (statutory; since 1911, \$7,500, by special appropriations of Congress).

Department of State: Secretary of State, \$12,000; Assistant Secretary, \$5,000; Second Assistant Secretary, \$4,500; Third Assistant

Secretary, \$4,500; Resident Diplomatic Officer, \$7,500; Counselor, \$7,500; Solicitor, \$5,000; Ambassadors (10), \$17,500; Ministers (32), \$3,500 to \$12,000; Consuls (303), \$2,000 to \$12,000.

Treasury Department: Secretary of the Treasury, \$12,000; Assistant Secretaries (3), \$5,000; Treasurer of the United States, \$8,000;

Assistant Treasurers, Subtreasuries, \$4,300 to \$8,000; Comptroller of the Treasury, \$6,000; Comptroller of the Currency, \$12,000; Register of the Treasury, \$4,000; Auditors (6), \$4,000 to \$5,000; Supervising Architect, \$5,000; Chief, Secret Service Division, \$4,000; Director of Bureau of Engraving and Printing, \$6,000; Director of the Mint, \$5,000; Superintendent, Assay Offices, \$5,000; Commissioner, Internal Revenue, \$6,000; Collectors of Internal Revenues (63), from \$3,000 to \$4,500; Collectors of Customs, from \$4,000 to \$12,000; Superintendent, Life Saving Service, \$4,500; Surgeon General, Public Health Service, \$6,000; Federal Reserve Board (5), \$12,000.

War Department: Secretary of War, \$12,000; Assistant Secretary, \$5,000; Superintendent, United States Military Academy, \$8,000; Lieutenant General, active, \$11,000, retired, \$8,250; Major General, active, \$8,000, retired, \$6,000; Brigadier General, active, \$6,000 retired, \$4,500; Colonel, active, \$4,000, retired, \$3,000; Lieutenant Colonel, active, \$3,500, retired, \$2,625; Major, active, \$3,500, retired, \$2,625; Major, active, \$3,000, retired, \$2,250; Captain, active, \$2,400, retired, \$1,800; First Lieutenant, active, \$2,000, retired, \$1,500; Second Lieutenant, active, \$1,700, retired, \$1,275. Pay of officers of the rank of colonel and under may be increased through length of service.

Navy Department: Secretary of the Navy, \$12,000; Assistant Secretary, \$5,000; Admiral, \$13,500; Rear Admiral, 1st nine, \$3,000, 2nd nine, \$6,000; Captain, \$4,000; Commander, \$3,500; Lieutenant Commander, \$3,000; Lieutenant, \$2,400; Lieutenant, junior grade, \$2,000; Ensign, \$1,700. "All officers on sea duty and all officers on shore duty beyond the continental limits of the United States shall while so serving receive 10 per centum additional of their salaries and increases as above provided" (Act of May 13, 1908) "When an officer of the Navy has been thirty years in the service he may upon his own application, in the discretion of the President, be retired from active service and placed upon the retired list with three-fourths of the highest pay of his grade" (Act of May 13, 1908).

Department of Justice: Attorney General, \$12,000; Solicitor General, \$10,000; Assistant to the Attorney General, \$7,000; Assistant Attorney General, Customs Division, \$8,000; Assistant Attorneys General (7), \$5,000; Solicitor of the Treasury, \$5,000; Solicitor, Dept. Commerce and Labor, \$5,000; Solicitor of Internal Revenue, \$5,000; District Attorneys (86), \$2,000 to \$10,000; U. S. Marshals (86), \$2,000 to \$5,000.

Postoffice Department: Postmaster General, \$12,000; Assistant Postmasters General (4), \$5,000; Purchasing Agent, \$4,000; Chief Inspector, \$4,000; Postmasters in cities of over 500,000 inhabitants, \$6,000 to \$8,000.

Department of the Interior: Secretary of the Interior, \$12,000; First Assistant Secretary, \$5,000; Assistant Secretary, \$4,500; Commissioner of the (General) Land Office, \$5,000; Commissioner, Indian Affairs, \$5,000; Commissioner of Patents, \$5,000; Commissioner of Pensions, \$5,000; Commissioner of Education, \$5,000; Director of Geological Survey, \$6,000; Director, Reclamation Service, \$7,500; Chief Engineer, Reclamation Service, \$6,000; Superintendent of the Capitol, \$6,000; Director, Bureau of Mines, \$6,000.

Department of Agriculture: Secretary of Agriculture, \$12,000; Assistant Secretary, \$5,000; Solicitor, \$5,000; Chief of the Weather Bureau, \$6,000; Forester, \$5,000; Director of Experiment Stations, \$4,500; Chiefs of Bureaus (6), \$3,000 to \$5,000.

Department of Commerce: Secretary of Commerce, \$12,000; Assistant Secretary, \$5,000; Chief, Bureau of Foreign and Domestic Commerce, \$4,000; Commissioner of Corporations, \$5,000; Director of the Census, \$7,000; Superintendent Coast and Geodetic Survey, \$6,000; Inspector General of Steamboat Service, \$4,000; Commissioner of Fisheries, \$6,000; Commissioner of Navigation, \$4,000; Director of Bureau of Standards, \$6,000.

Department of Labor: Secretary of Labor, \$12,000; Assistant Secretary, \$5,000; Commissioner of Labor Statistics, \$5,000; Commissioner General of Immigration, \$5,000; Commissioners of Immigration (9), \$3,000 to \$6,500; Commissioners of Labor Statistics, \$5,000; Chief, Children's Bureau, \$5,000.

Legislative.—Senate: Senators, \$7,500; Sergeant at Arms, \$6,500; Secretary of Senate, \$6,500; Assistant Secretary, \$5,000; Clerk to Committee on Appropriations, \$5,000; Official Reporters of Debates (6), \$5,000.

House of Representatives: Speaker, \$12,000; Representatives, \$7,500; Sergeant at Arms, \$6,500; Clerk of the House, \$6,500; Clerk to Committee on Appropriations, \$5,000; Postmaster, \$4,000; Doorkeeper, \$5,000; Cashier, \$3,400; Official Reporters and Stenographers (10), \$5,000.

Judiciary.—Supreme Court: Chief Justice, \$15,000; Associate Justices (8), \$14,500; Clerk, \$6,000; Reporter, \$4,500; Marshall, \$4,500.

Circuit Court of Appeals: Circuit Judges (29), \$7,000; Clerks (9), \$3,500.

District Court: Judges (93), \$6,000; 4 in Alaska, \$7,500.

Court of Claims: Chief Justice, \$6,500; Judges (4), \$6,000; Clerk, \$3,500.

Court of Customs Appeal: Presiding Judge, \$7,000; Associate Judges (4), \$7,000; Clerk, \$3,500.

Independent Commissions and Boards.—Interstate Commerce Commissioners (7), \$10,000; Secretary of the Commission, \$5,000; Solicitor, \$5,000; Statistician \$5,000; Chief of Division of Tariffs, \$5,000; President, Civil

Service Commission, \$4,500; Civil Service Commissioners (2), \$4,000; Librarian, Library of Congress, \$6,000; Register of Copyrights, \$4,000; Public Printer, \$5,500; Superintendent of Documents, \$3,500.

Territories and Dependencies.—*The Philippine Islands*: The Governor General, \$20,000; Commissioners (8), \$7,500 to \$15,500.

Porto Rico: Governor, \$8,000; Treasurer, \$5,000; Secretary, Auditor, Commissioners of Interior and of Education, Director of Health, Charities and Corrections, each \$4,000.

Isthmian Canal Zone: Chairman of Commission, \$15,000; Commissioners (6), \$14,000; Chief Quartermaster, \$10,000; Subsistence Officer, \$7,500; Disbursing Officer, \$7,200; Examiner of Accounts, \$6,000; Chief Justice, Supreme Court, \$6,500; Associate Justices, Supreme Court, \$6,000.

District of Columbia: Commissioners (3), \$5,000; Assessor, Auditor, Collector of Taxes, Health Officer, Superintendent of Police, each, \$4,000; Chief Justice, Court of Appeal, \$7,500; Associate Justices, Court of Appeals, \$7,000; Chief Justice and Associate Justices of Supreme Court (6), \$6,000.

Alaska: Governor, \$7,000; Secretary, \$4,000.

Hawaii: Governor, \$7,000; Secretary, \$4,000.

Governors of States.—The salaries of governors run from \$2,500 to \$12,000; they are as follows:

Alabama -----	\$5,000	Nebraska -----	2,500
Arizona -----	4,000	Nevada -----	4,000
Arkansas -----	4,000	New Hampshire --	3,000
California -----	10,000	New Jersey -----	10,000
Colorado -----	5,000	New Mexico -----	5,000
Connecticut -----	4,000	New York -----	10,000
Delaware -----	4,000	North Carolina --	5,000
Florida -----	5,000	North Dakota ---	5,000
Georgia -----	5,000	Ohio -----	10,000
Idaho -----	5,000	Oklahoma -----	4,500
Illinois -----	12,000	Oregon -----	5,000
Indiana -----	8,000	Pennsylvania ----	10,000
Iowa -----	5,000	Rhode Island ----	3,000
Kansas -----	5,000	South Carolina --	3,000
Kentucky -----	6,500	South Dakota ----	3,000
Louisiana -----	5,000	Tennessee -----	4,000
Maine -----	3,000	Texas -----	4,000
Maryland -----	4,500	Utah -----	4,000
Massachusetts ----	8,000	Vermont -----	2,500
Michigan -----	5,000	Virginia -----	5,000
Minnesota -----	7,000	Washington -----	6,000
Mississippi -----	4,500	West Virginia ---	5,000
Missouri -----	5,000	Wisconsin -----	5,000
Montana -----	5,000	Wyoming -----	4,000

LAWRENCE B. EVANS.

SALARY GRAB. By an act of March 3, 1873, Congress voted an increase in the salary of the President, Vice-President, members of the Cabinet, Justices of the Supreme Court, Speaker of the House, and members of Congress. It raised the salary of congressmen from \$5,000 to \$7,500. In the case of the other officers, the law was to go into effect on and after March 4, 1873; but it was made to apply to the members of Congress passing the measure, who thus voted themselves retroactively \$5,000 each. The same retroactive method had been followed on former occasions, when congressional salaries were raised (1816; 1818;

1856; 1866); but the "salary grab" or "back pay steal" caused much indignation in the country. Many members returned to the treasury the increased pay, and in 1874 the bill as far as it applied to congressmen was repealed. References: *Statutes at Large*, XVII (1873), 486; J. F. Rhodes, *Hist. of U. S.*, VII (1906), 20-21; W. A. Dunning, *Reconstruction* (1907), 233-235. A. C. McL.

SALT LICKS AND LANDS. National lands containing salines have long been subject to special legislation. In 1796 all sections containing salt springs were reserved from sale, and from 1802 to 1894, most of the western states received some or all their salt lands on their admission. Thus 606,045 acres were granted to thirteen states. Other saline lands within their limits were, after 1877, open to sale at \$1.25 an acre minimum. The New Mexico grant of 1898 was revoked in 1910 and other lands substituted. Saline lands were never subject to preëmption or homestead entry, and since 1901 have been sold as mineral land. See PUBLIC LANDS, RESERVATION OF. Reference: Thomas Donaldson, *Public Domain* (1884), 217-8, 696, 1247. P. J. T.

SALT RIVER. A mythical political stream up which a defeated candidate is said to have gone. The phrase is said to have originated from Salt River, a turbulent tributary of the Ohio river on the Kentucky side up which robbers rowed their plunder in the early days of American expansion. O. C. H.

SALVADOR. Salvador (El Salvador) originally part of the captaingeneracy of Guatemala, later of the viceroyalty of New Spain, declared with Central America (*see*) independence from Spain in 1821, and withdrew from that confederation in 1841. The republic lies between latitude 13° 12' and 14° 28' north, and longitude 87° 37' and 90° 6' west (Greenwich), with an area of 7,225 square miles, the smallest in Latin America, and a population of 1,707,000, or 236 per square mile, making it the most thickly populated area on the American continents. The present constitution (1886) provides for a unicameral legislative system, the chamber of deputies (*Camara de Diputados*), one deputy for every 15,000 inhabitants, elected by popular and compulsory vote, for a term of only one year. The president and vice-president are elected by popular vote for a term of four years. There is a cabinet of four ministers: of foreign affairs, justice and charities; the treasury and public credit; interior, promotion, public instruction and agriculture; war and marine. The judicial branch is a supreme court elected by the assembly for a term of two years, and lower courts. The republic is divided politically into 14 departments, something like territories. The capital is the city of San Salvador. State

religion is Roman Catholic. **Reference:** J. I. Rodriguez, *Am. Constitutions* (1905), I, 259-298; Pan American Union, *Bulletin*. A. H.

SAMOA, DIPLOMATIC RELATIONS WITH.

In 1878, by treaty with the king of Samoa, the United States obtained permission to establish a naval station at Pago-Pago. The following year similar privileges in other ports were granted to Great Britain and Germany. In 1884, the German consul induced the king, Malietoa, to accept a German-Samoan council and a German adviser, but his action was not sustained because of a strong protest from the United States.

In 1886, the American consul, in compliance with the request of the king, declared the islands to be under the protection of the United States. The American Government disavowed this action, but suggested that the British and German ministers at Washington should discuss the situation with the Secretary of State. The conference, in 1887, failed to come to any agreement. Soon thereafter Germany drove Malietoa into exile and appointed another king under a German advisor. Armed opposition from the natives followed, whereupon the President ordered Admiral Kimberly, who was in command of the American warships then in Samoan waters, to protest against the overthrow of the native government by Germany.

This led, in 1889, to an Anglo-German-American conference at Berlin, which established a joint protectorate over the islands. A commission of the three powers sent to undertake the government found such a deplorable condition of rivalry, jealousy and civil war that it was deemed best to partition the islands. Great Britain transferred her claims in Samoa to Germany, and received compensation in Africa and in other parts of the Pacific; these two powers then, by treaty, December 2, 1899, renounced in favor of the United States all of their rights over Tutuila and the five other southern islands.

See DEPENDENCIES OF THE UNITED STATES; GERMANY, DIPLOMATIC RELATIONS WITH; PACIFIC ISLANDS.

References: J. B. Henderson, Jr., *Am. Diplomatic Questions* (1901), 205-286; J. W. Foster, *Am. Diplomacy in the Orient* (1903), ch. xii; J. B. Moore, *Digest of Int. Law*, I (1906), 536-554; B. Tripp, *My Trip to Samoa* (1911).

GEORGE H. BLAKESLEE.

SANCTION OF THE LAW. In a legal sense, the penalty, punishment or other method provided for the enforcement of obedience to the law. In jurisprudence, the term denotes that there is a sovereign or government which will intervene, either of its own accord or when called upon, and see that the law is obeyed. The potential intervention of the state, then, is the sanction of the law. Thus any law which

commands has a sanction, even though no penalty or punishment is expressly provided. On the other hand, international law has no legal sanction, for there is no sovereign or state to enforce it. **Reference:** T. E. Holland, *Elements of Jurisprudence* (9th ed., 1900), 22, 29, 83.

H. M. B.

SAN DOMINGO, DIPLOMATIC RELATIONS WITH.

The general attitude of the United States toward the Dominican Republic prior to the Civil War is similar to that toward Hayti (*see*). In 1861 the Dominican Republic was overthrown by a force of Spaniards from Cuba and the Queen of Spain was proclaimed. Mr. Seward at once protested against "the assumption or exercise of Spanish authority" in the island. Owing to the inability of Spain to establish order and the continued opposition of the inhabitants, she abandoned the island in 1865.

During the winter of 1866-1867 Mr. Frederick W. Seward, Assistant Secretary of State, and Admiral Porter visited San Domingo for the purpose of securing the lease of Samana Bay as a naval station. Their mission was not successful; but the following year the president of the Dominican Republic sent an agent to Washington proposing annexation and requesting the United States to occupy Samana Bay at once. In his annual message of December 8, 1868, President Johnson advocated the annexation of the republic, and a joint resolution to that effect was introduced in the House, but it was tabled without debate by a vote of 110 to 63.

President Grant became much interested in the scheme and sent one of his private secretaries, General Babcock, to the island in 1869 to report on the condition of affairs. Babcock negotiated two treaties, one for the annexation of the Dominican Republic and the other for the lease of Samana Bay. These treaties were submitted to the Senate in January, 1870, but encountered violent opposition, especially from Sumner, chairman of the committee on foreign relations. The treaties were finally rejected June 30 by a vote of 28 to 28, two-thirds being necessary to ratify.

Like Hayti the Dominican Republic has suffered from frequent revolutions. After the assassination of President Heureux in 1899 the finances of the republic fell into bad shape, and in view of the practical bankruptcy of the government certain European powers intimated in 1904 that unless the United States would take charge of the Dominican customs and guarantee an equitable distribution of the revenue, they would resort to measures of coercion. Accordingly President Roosevelt concluded a protocol with San Domingo February 4, 1905, by which an agent appointed by the President of the United States was to take charge of the custom-houses and administer the finances. The Senate failed to ratify this

agreement at the time, but President Roosevelt persisted in his course, and a revised treaty was finally ratified by the Senate February 25, 1907. Up to the time of writing (1913) American financial supervision has worked satisfactorily.

See ANNEXATION, DIPLOMATIC PRINCIPLES OF; MONROE DOCTRINE; PROTECTORATES.

References: J. B. Moore, *Digest of Int. Law* (1906), I, 163, V, 581, VI, 509; F. Bancroft, *William H. Seaward* (1900), II, 134, 157-159, 486-489; J. H. Latané, *America as a World Power* (1907), 279-281; *Foreign Relations*, 1866, I, 114-124, 1895, 235-243, 397-401, 1899, 242-255, 1907, I, 307-360.

JOHN H. LATANÉ.

SAN FRANCISCO. History.—When the influx of gold seekers had suddenly replaced the little Mexican town of San Francisco with a flourishing American city, the first legislature of California provided it on April 15, 1850, with the familiar American scheme of city government of a mayor and a two chamber council. A second charter, extending and making more definite the powers of the city, followed in 1851 and a third in 1855. By the Consolidation Act of 1856 a new unit of local administration, the City and County of San Francisco was created. Geographically this unit is one of the counties of the state. Politically it is a municipal corporation, except that some of its officers for example the district attorney, sheriff and coroner, are for certain purposes county officers. This act provided for a president of the board of supervisors endowed with the veto power and most of the attributes of mayorship. Seventeen other executive officers were elected at large, seventy-two by wards, and the legislative power was vested in a board of supervisors, one from each of twelve wards. While specific changes were frequently made no new charter was enacted for the city until 1880. This the supreme court promptly abrogated on the ground that it had not been submitted to the people. The same year and again in 1883, 1887 and 1895 charters prepared by boards of freeholders were defeated at the polls. Another prepared in 1898 was more fortunate and went into effect on January 1, 1900. Substantially unamended except by the radical work of the charter convention of 1910, it is the charter of San Francisco today.

Present Charter.—The principal elective officers are: eighteen members of the board of supervisors and four police judges, one half of whom are elected for four year terms at each biennial city election; a mayor, county clerk, auditor, district attorney, sheriff and coroner chosen at one biennial election and a tax collector, recorder, city attorney, public administrator and treasurer at the next, all for four year terms. Up to 1911 the terms of all these officers except justice of the peace

were two years and they were all elected at the same time. Aside from these elective authorities the great departments of city administration are in charge of boards appointed by the mayor, the members of which generally serve for little or no salary and in turn select the personnel of the active professional service below them. The most important of these boards is the board of public works. Its members, three in number, are appointed for three years, one retiring each year. Subject to the ordinances of the supervisors, it has jurisdiction over streets, including their construction, cleaning, lighting, sprinkling, excavation and repair, the construction and maintenance of public buildings, sewers and sewage disposal, the collection and disposition of garbage, and the supervision of public utilities. It appoints the city engineers and heads of the numerous departments in its field. In addition to these powers, street improvements can be authorized by the supervisors only upon its recommendation. The board of police commissioners consists of four members whose four year terms expire in annual rotation. They not only appoint the chief of police and the other members of that department, but control the issuance of saloon licenses. An exactly similar board administers the fire department. The department of health is directed by an unpaid board of seven members, *i. e.*, the chief of police and the president of the board of public works *ex officio* and five physicians named by the mayor. There are five election commissioners, whose four year terms are so arranged that they retire, as near as may be, in annual rotation. The park board consists of five members serving gratuitously, one of whom must be an artist. Of a slightly different character are the board of education and the civil service commission. The former consists of four school directors, appointed by the mayor for four years, one term expiring each year. They receive a salary of \$4000 a year and must give their full time to the work of the board. In this case, however, the superintendent of schools, who should, in the natural course of things, be their subordinate, is elected by the people. One of the three members of the civil service commission retires each year and its function is the familiar one of holding examinations and certifying candidates for appointment.

In addition to the considerable appointing power above referred to, the mayor presides over the board of supervisors, and may veto their ordinances which require fourteen affirmative votes to become law without his approval. His position is by no means as powerful, relatively to the other departments of the city government as that of the mayors of New York or Boston. During his four years of office he can change the whole composition of any of the great boards. At a given moment, however, his control of them is very incomplete.

Public Utilities and Municipal Ownership.—Upon application for a street railway or electric power franchise, notice of that fact with the conditions of the proposed grant are advertised and the franchise awarded to the applicant offering to pay the highest percentage of gross receipts above the minimum prescribed by the charter. The term of the franchise cannot exceed twenty-five years at the expiration of which time "the roadtrack and bed of such railway and all its stationery fixtures upon the public streets become the property of the city and county." A compulsory referendum is provided on all "new franchises for the operation of any public utility whose franchise has expired or is about to expire." The supervisors are also given ample power to regulate rates and the character of service. The charter declares it to be the intention of the people of San Francisco gradually to acquire their public utilities. Propositions to this end may originate with the supervisors of their own volition or upon the petition of fifteen per cent of the qualified electors. The mayor may also formulate alternative propositions. These propositions are submitted to the people. If the cost can be met from current revenue a majority vote is enough. If a bond issue is involved, two-thirds of the votes cast must be in the affirmative. Two bond issues for this purpose have been voted (both in 1909), one for the municipalization of the Geary Street Railway, the other to enable the city to carry out the vast project of supplying itself with water from the Hetch Hetchy valley. The municipal railway has been successfully operated for some years; permission to impound a water supply in Hetch Hetchy valley was obtained from the Federal Government only in 1913.

Amendments of 1911.—The amendments of 1911 provide for the non-partisan system of nomination and election made familiar by the charters of Dallas and Berkeley. Each candidate must file with the register of voters a declaration of candidacy supported by the sworn certificates of not less than ten electors that he is "fully qualified" for the office. This is sufficient to place his name on the ballot at the first or primary election which takes place on the last Tuesday of September. At this election a majority is necessary to elect. If no one receives a majority, the contest at the second election in November is confined to the two highest on the primary list. There are no party designations on the ballot. The names of the candidates for each office will be arranged alphabetically in the lowest numbered assembly district. The candidate last named in that district will head the list in the next and so on through the districts (*see* PRIMARY, DIRECT).

Ordinances or charter amendments may be initiated by popular petition (*see* INITIATIVE). If the proposition is to be submitted to a special election, signatures of electors equal

to ten per cent, if to a general election, four per cent, of the total vote for mayor at the last election are necessary. The referendum (*see*) is compulsory on measures involving the lease or sale of any public utility or the regranting of a franchise. One third of the supervisors or the mayor alone may refer a measure to a general, a majority of the supervisors to a special, election. Electors to the number of five per cent of the last mayoralty vote can force a referendum on ordinances authorizing the lease or sale of lands or the purchase of lands of more than \$50,000 value. The measure to be voted on, accompanied by one eight page argument in favor and as many such arguments against as there are persons, committees or organizations to submit them, must be sent to each voter at the public expense. The recall (*see*) may be instituted against any elective officer by a petition of electors equal to ten per cent of the last vote for mayor. At the resultant election the incumbent is *ipso facto* a candidate, and others are nominated and the election conducted in the manner described above for regular elections, except that the ballot carries three hundred word statements for and against the exercise of the recall in the particular case. If the incumbent is reelected he is reimbursed out of the special election fund for all his legitimate expenses and double the number of signatures are necessary to institute a second recall proceeding against him.

See CHARTERS, MUNICIPAL; CITY AND THE STATE; MUNICIPAL GOVERNMENT IN THE UNITED STATES.

References: W. S. Church, *Charter of San Francisco Annotated* (1907); T. H. Reed, "Municipal Home Rule in California" in *Nat. Municipal Review*, Oct., 1912; B. Moses, "Establishment of Municipal Government in San Francisco" in Johns Hopkins Univ., *Studies*, VII (1889); P. V. Long, "Consolidated City and County Government of San Francisco" in Amer. Polit. Sci. Assn., *Proceedings* (1912).
THOMAS H. REED.

SAND LOT. A tract of vacant land in central San Francisco, used as headquarters for a time by Dennis Kearney where he addressed the crowds during the anti-Chinese agitation 1877-1889. **See** CALIFORNIA; CHINESE IMMIGRATION AND EXCLUSION; KEARNEYISM.

O. C. H.

SANDWICH ISLANDS. **See** HAWAII; HAWAIIAN ANNEXATION.

SANITARY LAWS. All types of government in the United States have authority to deal with the health of the community in one way or in another. The principal fields of legislation so far are: quarantine; school hygiene; public nursing service; inspection and certification of food and drugs; public hos-

pitals; nuisances; tenement houses; garbage removal; and in many other ways. See ABATTOIRS; BATHS, PUBLIC; BUILDING LAWS; CEMETERIES; CONTAGIOUS DISEASES; DISPENSARIES, FREE; DRAINAGE; DRUGS, PUBLIC REGULATION OF; GARBAGE REMOVAL; HOSPITALS, PUBLIC; MARKETS, REGULATION OF; MEAT INSPECTION; MILK SUPPLY, REGULATION OF; NURSES, DISTRICT; PURE FOOD; QUARANTINE; WATER SUPPLY. Reference: see under HEALTH, PUBLIC, REGULATION OF.

R. C. C.

SASKATCHEWAN. One of the provinces of western Canada (*see*) created September 1, 1905, by act of the Canadian federal Parliament (4-5 Edward VII, C. 42). It comprises portions of what were formerly the organized territories of Saskatchewan and Assiniboia, together with some hitherto unorganized northwest territory. It is bounded on the east by the province of Manitoba and the district of Keewatin; on the north by the district of Mackenzie; on the west by its sister province of Alberta; and on the south by the states of Montana and North Dakota. It has an area of approximately 250,000 square miles and in 1911 its population was officially estimated at 492,432. The act which created the province of Saskatchewan gave it four representatives in the Dominion senate and in the year following it was allotted a definite quota of ten members in the Dominion house of commons. This allotment will be readjusted and in all probability increased after the census of 1911. The provincial government consists of a lieutenant-governor appointed for a four-year term by the governor general of Canada, an executive council or ministry of five members, and a single elective chamber of forty-one members. All official acts of the lieutenant-governor must be countersigned by a member of his ministry, which is, in turn, responsible to the legislative assembly. In general the relations of the executive and legislative organs of provincial government, the structure and functions of the judiciary, and the organization of local administration conform to that of the other Canadian provinces. The provincial capital is at Regina. See CANADIAN PROVINCES. References: G. M. Adam, *The Canadian Northwest* (1885); E. B. Osborne, *Greater Canada* (1900); Beekles Wilson, *The Great Company*, (1900); *Canadian Annual Review of Public Affairs*. W. B. M.

SATIRISTS, POLITICAL. Political satirists have always played a considerable part in English politics since the beginning of the Stuart period. They also appeared in colonial affairs, as in the quips of John Joseelyn, and the acrid complaints of John Ward "the cobbler of Agawams" upon the Massachusetts Bay government. The political writing of the Revolution was fierce and polemical. The only genial writer of that period was Francis Hop-

kinson. Cobbett ("Peter Porcupine"), Calender and Cooper, were types of the personal journalist of the beginning of the nineteenth century.

The first writer to satirize the politics of his time in a good natured way was Washington Irving in his *Knickerbocker History of New York*. Later the two writers, Seba Smith, and Charles A. Davis, who wrote independently each under the name of Jack Downing, were much enjoyed by Andrew Jackson, especially when they satirized the Vice-President, Van Buren.

During the Civil War, "Artemus Ward" (C. A. Browne), "Orpheus C. Kerr" (R. H. Newell) and "Petroleum V. Nasby" (D. R. Locke) attracted popular attention by their comments on public affairs, most of them disguised by impossible spelling. They were followed by E. L. Godkin, the editor of the *Nation*, an unterrified dissector of his opponents for many years. Since 1890 the field has been taken by Wallace Irwin, chiefly in genial and amusing verse; and by "Mr. Dooley" (F. P. Dunne), who writes trenchantly on political and social topics.

Like the cartoonists, the satirists have been allowed free play. By the short lived Sedition Act of 1798 prosecutions were authorized against those who sought to arouse their readers to hatred of public officials or of their government. A Pennsylvania governor from 1903 to 1907 tried to secure a law for the punishment of those who too much assailed or threw ridicule upon public officials. No state, however, has ever passed such a regulatory law, and the political satirists are considered to have their place in calling popular attention to the defects in their government, and the deficiencies in their rulers.

See ALIEN AND SEDITION ACTS; FREEDOM OF SPEECH.

References: M. C. Tyler, *Hist. of Am. Literature during the Colonial Time* (1897), *Literary Hist. of the Am. Revolution* (1897); R. Ogden, *Life and Letters of Edwin Lawrence Godkin* (1907); text of the Sedition Act in *Am. Hist. Leaflets*, No. 15 (1894). A. B. H.

SAVINGS BANK INSURANCE. The ingenious plan of using the machinery of savings banks for insurance and annuities owes its origin to Mr. L. D. Brandeis, and has been tried in Massachusetts (Acts of 1907, ch. 561) which authorizes any savings bank to establish under proper safeguards an insurance department for the issue to residents of Massachusetts of legal reserve life insurance limited to \$500, and annuities limited to \$200 a year on any one life. Persons may take out life insurance and annuities, however, in more than one bank. The purpose of this legislation is to give wage-earners an opportunity to secure safe life insurance, and to make provision for their old age by the purchase of an-

nuities out of current earnings at the lowest possible cost. This is to be accomplished by (1) eliminating the paid solicitor of insurance and the collector of premiums whose services make industrial insurance so costly; (2) eliminating the cost of actuarial services and general medical supervision, by requiring the state actuary and state medical director to do this work for all savings insurance banks without charge to the bank; (3) utilizing the high net earning capacity of savings banks for investing funds; (4) substituting for the paid solicitor and collector numerous unpaid agencies through which applications for insurance and annuities may be paid and at which premiums may be paid. The effect of this at once was to reduce the charges for industrial insurance made by private companies. Four banks qualified to write the new insurance, and had issued in the year ending Oct. 31, 1912, 2,590 policies representing \$924,505 of insurance, being a net gain of 566 policies and \$562,099 of insurance for the year, leaving a total of 6,652 policies and \$2,528,809 of insurance in force in all four banks on Oct. 31, 1912. See INSURANCE AND SOCIAL WELFARE; INSURANCE, INDUSTRIAL; OLD AGE PENSIONS AND INSURANCE; WORKINGMEN'S INSURANCE. References: L. D. Brandeis, "Massachusetts Savings Bank Insurance and Pension System" in *Am. Statist. Assoc., Publications*, XI (1908, 1909), 409; S. M. Harrison, "Massachusetts Scheme of Savings Bank Insurance" in *Survey*, XXIV (1910), 237. S. McC. L.

SAVINGS BANKS. See BANKS, SAVINGS.

SCAB. "Scab" is the term the members of labor unions apply to non-union workmen, particularly to those who take the places of strikers. See BOYCOTTS; LABOR ORGANIZATIONS; PICKETING; STRIKES. J. R. C.

SCALAWAGS. A term opprobriously applied in the South during the reconstruction (*see*) period, to southern-born men who joined with the "carpet-baggers" (*see*) to control the government and to share the spoils of office secured by freedmen's votes. O. C. H.

SCHEDULE. That portion of a state constitution which is intended to be of a temporary character, marking out the procedure to be followed in bringing the constitution and the government which is provided for into full being and effect. Such provisions are needful in the change from one constitution to another or when a territory is being established as a state in the Union. The schedule is provided "that no inconvenience may arise from the adoption of this constitution" (Constitution of Virginia, 1902) or "that no inconvenience may arise from a change of the territorial government to a permanent State government" (Constitution of Washington, 1889). Among other

things it provides for the continuation and validity of laws and of legal processes and rights. See CONSTITUTIONS, STATE.

A. C. McL.

SCHOOL BOARDS. See EDUCATION, BOARD OF.

SCHOOL BUILDINGS. It is the duty of every school district to provide adequate buildings for the instruction of its pupils. School directors or trustees can rent other buildings in which to conduct a school in the absence of a regular building. School houses are usually erected upon the authorization of the voters of the district, while their maintenance is in charge of the proper officials without special authority. The site of the building in some instances is left to the vote of the district in others to the special officers. Land may be taken from a private estate without the owner's consent if damages are paid therefor. See SCHOOL FINANCE; SCHOOL PROPERTY. References: F. A. Burke, *Treatise on the Law of Public Schools* (1880), 154; U. S. Department of Education, *Reports* (1888-1889), I, 579-87; "Sites" in *ibid.* J. V. B.

SCHOOL COMMITTEES. See EDUCATION, BOARD OF.

SCHOOL DIRECTORS. School directors in general manage and control the schools, buildings and the school property. They have the power to employ teachers and purchase supplies. Their contracts are binding upon the district. The directors are usually elected and serve in accordance with the laws in each particular state. See EDUCATIONAL ADMINISTRATION. J. V. B.

SCHOOL DISTRICT. The school district is any area set apart as the unit of organization for the local control and administration of school affairs. The election of officers, the authorizing of tax levies for buildings and instruction, the adjustment of boundaries of subdivisions, or in some instances the readjustment of independent district boundaries are some of the powers granted to the electors residing therein.

The township as a district for the organization of schools usually coincides geographically with the civil township. It is, however, under the separate control of a board chosen for that purpose, who may or may not be composed of directors chosen by each subdistrict. It is usually provided that independent districts may be formed in townships which constitute a school district; or, all of the subdistricts of the township may by vote become independent school districts. Consequently in the same counties one may sometimes find townships having only subdistricts, or only independent districts, or a combination of both.

The officers chosen in the township district may include a president or chairman, a secretary, and a treasurer; or the civil township officers may perform the duties of the two last mentioned. When, however, independent districts exist they elect their own board—which consists usually of three members, except in village or city district.

The independent school districts were first established in Massachusetts in 1789. Their organization is said to have marked the farthest remove from a central administration in the history of the United States. These districts were finally abolished in Massachusetts in 1882; and the tendency at present in other states is toward the consolidation of the rural districts, where a single director and a single teacher may represent the controlling element in educational affairs.

Where the township has not been fully established, as in the southern states, the school district must be established by county authorities. In some few instances the county school officers appoint the officers of the district. The district, which may coincide with the civil or magisterial district, may elect its own trustees as does the township in the North. Again, in the far western states the county boards or the county superintendent of schools may determine the districts, but the local authority is represented in the selection of trustees and the control of tax levies for school purposes.

See EDUCATION AS A FUNCTION OF GOVERNMENT; EDUCATION, BOARD OF; RURAL DIVISIONS, MINOR.

References: G. E. Howard, *Local Constitutional History* (1889), I, 234; E. W. Bemis, "Local Government in Michigan and the Northwest" in Johns Hopkins University, *Studies* (1883), I, No. v; B. J. Ramage, "Local Government and Free Schools in South Carolina" in *ibid*, I, No. xii; H. W. Foght, *Am. Rural School* (1910); J. A. Fairlie, *Local Government* (1906), 161, 190; F. A. Burke, *Treatise on the Law of Public Schools* (1880), 154; state statutes and school codes.

BENJAMIN F. SHAMBAUGH.

SCHOOL EXTENSION. School extension is the attempt to utilize the school plant for more than the mere routine school courses. The public schools are institutions organized for the benefit of the respective communities in which they exist. Some school administrators have found that the school property can be used more to benefit the district in other respects than the mere instruction of pupils of school age. Evening schools for adults, lectures, special instruction, can be organized with the consent of the community. So far none of this extension has become an integral part of public instruction. See SCHOOL BUILDINGS; SCHOOLS, PUBLIC, SYSTEM AND PROBLEMS.

J. V. B.

SCHOOL FINANCE. The sources from which a public school draws its ordinary revenues are, in varying proportions: local taxation, state taxation, state school funds arising from the sale or lease of school lands (*see* SCHOOL FUNDS, STATE), fines, licenses, gifts, and fees from students. For special purposes revenue from bond issues, particularly for the purchase of land or the erection of buildings, may constitute a large occasional item. The total revenue arising from all sources for the common schools of the United States in 1910 was in round numbers, \$433,000,000. The largest item in this vast amount came from local taxation in district, town, city, and county, being \$312,000,000, an increase of 91 per cent in ten years.

In certain states from 80 per cent to 90 per cent of the money raised for school purposes comes from local taxation, *c. g.*, Massachusetts (which raises annually about \$19,000,000 in cities and towns), Illinois, Kansas, and Oregon. In all but 10 states such revenue constitutes not less than 50 per cent of the total. In about 15 states no state tax, or a very small one, is levied for common schools. Some states levy a mill tax or similar tax, *c. g.*, Maine (3 mills), Ohio (.335 mills), Nevada (1 mill), and Indiana (13.6 cents on the \$100); others appropriate a lump sum from the general revenue (Illinois, \$3,000,000) or a certain proportion of the total income of the state (Tennessee, one-fourth).

The distribution of the school fund of a district or even of a city, is a comparatively simple matter usually regulated in large degree by state law. Payments fall under three general headings. In the first class are current expenses: (1) the salaries of superintendents, principals, teachers, truant officers, and business officers, being about 60 per cent of the total expenditure in 1909; (2) wages of janitors, engineers, etc.; (3) fuel, water, light, power, etc.; (4) text-books, stationery, school supplies; (5) auxiliary agencies like libraries, playgrounds, medical inspection, school nurses, transportation of pupils; (6) repairs, insurance, and other upkeep expenses. In the second class are capital outlays, occasional rather than regular, for sites, new buildings and extension or large alterations. In the third class are payments of debts, interest, rents, etc.

The proper basis of the distribution of the state school moneys, however, is one of the most difficult problems in educational finance, whether the money is distributed to the counties, to the districts, or to the districts through the counties. In several southern states the county school boards under state laws distribute school moneys practically in their discretion. Illustrations of other methods are: Pennsylvania, in which one-third of the state school revenue is apportioned according to the number of teachers employed by the district,

one-third according to the number of children of school age, and one-third according to the number of taxables; Minnesota, in which the basis is the school enrollment. Nearly all the north central states distribute state school funds in strict accord with figures of the census of school population (educable children) or of total population, notwithstanding certain acknowledged inequalities arising from this method.

See BUDGETS, STATE AND LOCAL; COST OF GOVERNMENT IN UNITED STATES; EXPENDITURES, STATE AND LOCAL; PURCHASE OF PUBLIC SUPPLIES; SCHOOL FUNDS, STATE; SCHOOL PROPERTY.

References: Dutton and Snedden, *Administration of Public Education in the United States* (1908), ch. x; E. C. Elliott, "State School Systems" in U. S. Bureau of Education, *Bulletin*, 1908, No. 7, 1910, No. 2.

KENDRIC C. BABCOCK.

SCHOOL FUNDS, STATE. Definition.—The term, public school fund, state school fund, and several others, are used to designate either: (1) permanent funds of several classes and forms whose income is for the support of the public schools; or (2) the total annual current revenue paid into the state treasury from all sources and available for maintenance of the public school system, whether it arises from state taxation, interest, leases, or miscellaneous sources (*see* SCHOOL FINANCE). The discussion here is confined to the former meaning of the term.

Every state in the Union except Georgia and Pennsylvania has a permanent school fund of one kind or another, and several states have three or four separate funds. These funds have been accumulated by various processes, have come through various vicissitudes, and are managed in different ways. Some of the states made beginnings of such funds in colonial days, but the greater part of those now existing have come from the following sources:

(1) **Land Grants from the United States to the States for Educational Purposes.**—The states admitted between 1802 and 1848, except Texas, received the 16th section in each surveyed township of public domain; the states admitted since 1848, with a few exceptions, have received the 16th and 36th sections, in some cases two more, in each surveyed township. Out of these grants certain states saved little or nothing, while others have provided enormous funds. Minnesota had in 1911 an invested principal of nearly \$20,000,000, with an estimated increase, through leases and sales of iron lands, ultimately to more than \$100,000,000. South Dakota has already about \$5,000,000 invested, with prospective increase to \$33,000,000.

(2) **Federal Grants of Land to the States not Specifically for Schools.**—The proceeds of these grants have in many cases been devoted

wholly or in part to the school fund. Twelve states have thus used the swamp lands granted to them, Oregon, for example, giving 10 per cent of the proceeds. Salt lands, special grants, certain military and university lands, and the internal improvement lands given in 1841, have also gone to swell the school fund.

(3) **Federal Money Given, Loaned, Deposited or Returned to the States.**—A percentage of the sales of public lands in some states, *e. g.*, 5 per cent in 21 states, is paid to the states by the terms of the act of Congress admitting them into the Union, and devoted by them to the public school fund. Five states used all of their quotas of the Surplus Revenue Loan of 1837, practically a gift to the states, amounting to \$28,000,000, to increase their school funds; and all but four so used some part of their shares. New York's share thus set apart was \$4,014,520. Oklahoma received at the time of the admission of the state a cash grant from the federal treasury of \$5,000,000.

In 1891 the United States returned to the states their payments of the direct taxes levied in 1861, and this also was added to the school fund by some states, *e. g.*, Kentucky, which received \$606,641.03. A similar use was made by Vermont of \$240,000 with which that state was reimbursed for expenditures during the Spanish-American war.

(4) **State Appropriation of the Proceeds of State Lands.**—The earliest example is that of the Connecticut Western Reserve lands. Texas retained all public lands at the time of admission to the Union; 38,000,000 acres were used to establish a state school fund, and more than 4,000,000 acres for county school funds.

(5) **State Money Reservation and Appropriations.**—These have arisen from fines, bank taxes, fees, escheats, gifts, etc., covering a wide range, and from direct appropriation to the capital of the fund, as in Massachusetts, where provision was made in 1894 for transfer of \$100,000 to the school fund annually until it reached \$5,000,000 (1907).

Administration.—The management of these vast permanent school funds running from about \$60,000 in New Hampshire to more than \$75,000,000 (including county funds) in Texas, varies in method and in efficiency. Full control by the state rather than by the county or the township has become the general rule, and every state admitted since 1858 manages the 16th and 36th sections funds, thus securing uniformity and unity. Direct control is vested in the state controller, as in New York and Texas, or in a board or commission, frequently made up of *ex officio* members already heavily burdened with other duties, as in Minnesota, Nebraska, and Montana. Some state constitutions have fixed a minimum price for the public school lands—Nebraska, \$5 in 1867 and \$7 in 1875, North Dakota, South Dakota, and Washington, \$10—and require the sales to be public. Losses of school funds

amounting in total to about \$28,000,000 have occurred through mismanagement, dishonesty, war, and misappropriation, but these belong for the major part in the period before 1870. Broadly speaking, the management since that date has been good.

Advantages.—Expenditures from the income from the school fund in different states under the general term "maintenance of a system of free schools" are made for wages of trained and legally qualified teachers, supervision (local and state), care of buildings, textbooks, equipment, transportation of pupils, etc.

The benefits arising from the system of public school funds in the states have been many, positive, and cumulative, increasing with the development of the states. It is safe to say that such funds made the free public school system possible, by overcoming early indifference to a state-supported system, and tiding the free school over the period of contempt and suspicion which it met in some sections. The lessening of local taxation in new and poor counties was a real and deserved relief at a critical period in many states. The apportionment of the income from these funds, on whatever basis it is made, is still a leverage for moving the local school authorities to maintain a longer term and to improve the standard of equipment, courses, and attendance.

See EDUCATIONAL ADMINISTRATION; EDUCATIONAL LAND GRANTS; EDUCATIONAL STATISTICS; SCHOOL FINANCE; SCHOOL PROPERTY.

References: F. H. Swift, *Hist. of Public Permanent Common School Funds in the U. S., 1795-1905* (1911); U. S. Commr. of Educ., *Reports* (1905-1911); state treasurers and superintendents of public instruction, *Reports*; E. P. Cubberly, *School Funds and their Apportionment* (1905).

KENDRIC C. BABCOCK.

SCHOOL HYGIENE. Municipal authorities through their school committees and boards of health, have recently begun to realize the very serious responsibility, and to utilize the huge and fruitful opportunity presented by the compulsory aggregation of children in school-rooms under compulsory school laws. Statistics show that the contagious diseases of children become more frequent during the months of school attendance, and fall off suddenly as soon as the children are separated by the summer vacation. Compulsory education thus involves a certain amount of compulsory disease and makes it necessary for the municipalities to do everything in their power in order that the results of the compulsory school law shall not involve definite harm along with its good.

Health work in the schools has been taken up from three main motives: (1) to insure that the child receive no physical harm in the course of his studies; (2) to remove any physi-

cal obstacles which interfere with his getting an education; (3) to include play and the regulation of play within the educational duties of the city.

The prevention of physical harm was the earliest of these motives, and proceeded out of the long recognized obligation of the state to prevent, wherever possible, the spread of contagious disease. In November, 1894, Dr. Samuel H. Durgin of the Boston Board of Health, started the first medical inspection of schools in the United States. This service has increased rapidly both in the frequency and in the thoroughness of examination given to each child; yet up to the present time it exists rather on paper than in fact. The larger cities of the country, such as New York and Boston, are supposed to give each child a thorough physical examination at least once a year, and to see that the defects so discovered are remedied. In practice very little has been accomplished as yet.

Besides medical inspection a good deal of thought and expense have been put into more sanitary arrangement of the school buildings as regards drainage, ventilation, light and public drinking fountains.

The supervision of athletics and physical training within the schools is also a part of school hygiene imperfectly performed, in most places, by committees of the school board.

The teaching of hygiene as part of the curriculum is beginning to assume importance, and to dissociate itself from the thralldom of temperance agitation which, until recently, has much hampered its efficiency.

See DISTRICT NURSES; EDUCATION AS A FUNCTION OF GOVERNMENT; HEALTH, PUBLIC, REGULATION OF.

References: D. S. Snedden and W. H. Allen, *School Reports and School Efficiency* (1908); E. B. Hoag, *Health Index of Children* (1910); W. F. Barry, *Hygiene of the Schoolroom* (1909); *Am. Year Book*, 1911, 809, and year by year.

RICHARD C. CABOT.

SCHOOL PROPERTY. The diversification of the forms of school property as compared with fifty years ago is indicative of the widened scope of education. To the buildings and sites, and the usual furniture of desks, chairs, tables, etc., must be added apparatus in the form of charts, maps, libraries, supplemental books, casts, and pictures; the equipment of laboratories for chemistry, physics, biology, geography, domestic science, and music; machinery for manual training and mechanic arts, agriculture, typewriting, sewing; gymnasiums and athletic fields and playgrounds; and fields for gardening and farming. Textbooks, when these are furnished free, and school supplies of all sorts, constitute a large item in certain localities. In great cities like New York, whole buildings are required for administrative offices for the school system.

The money for these forms of property of the public schools is usually derived from public taxation of the locality (see SCHOOL FINANCE), or from the sale of bonds or the sale of lands and buildings in the case of removals; state appropriation; occasional private gift, or donations by corporations. The titles to the public school property, and its management, are usually in the hands of a local board of trustees which is a body corporate and politic representing the people of the local unit, and which acts under state law. The sale of public school property and the issue of bonds usually require special action by the voters of the locality, except in the larger cities.

The property of the private schools does not differ very much in form from that of the public school, except that many private schools have endowments, some of which are very large, *e. g.*, Girard College (manual arts school) of Philadelphia, which reports "invested assets" of about \$30,000,000. It might be noted that the public school system, rather than individual public schools, has a vast endowment in the form of state school funds (*see*).

The total valuation of all public school property used for public school purposes in the United States as reported to the United States Bureau of Education in 1910, excluding public colleges, universities, normal schools, and special schools, was in round numbers \$1,100,000,000, representing about 258,000 school houses. To this might be added about \$96,000,000 (excluding endowment of \$20,000,000), for private schools and academies; \$38,000,000 (excluding endowment of \$45,000,000) for manual and industrial training schools; and \$70,000,000 (excluding endowment of \$9,000,000) for special schools, usually public, for the blind, deaf, feeble-minded and delinquent.

See BUDGETS, STATE AND LOCAL; EDUCATIONAL LAND GRANTS; SCHOOL FINANCE; SCHOOL FUNDS, STATE.

Reference: U. S. Comm'r. of Educ., *Annual Report*, 1910, II, 1911, II.

KENDRIC C. BARCOCK.

SCHOOLS, COMMON. Common schools, mean ordinarily the public schools below the high school. See SCHOOLS, PRIMARY.

G. E. F.

SCHOOLS, CONTINUATION. A comparatively new feature of public education is the provision of evening and Sunday classes for people who are engaged during the day in their vocations. In England and Germany there is a great variety of such schools where the chief purpose is to give vocational training. In Germany employers are compelled by law to allow a certain number of hours per week to their immature employees to attend

continuation schools. Some of these schools are held during work hours. In America there are three classes of persons who attend evening continuation schools: (1) illiterates who are obliged to work and who voluntarily, or compelled by law, endeavor to master the elementary studies; (2) those who desire to pursue, in evening high schools, studies in advance of their previous acquirements; (3) those who seek vocational training. In all these continuation schools men and boys far outnumber the women and girls. According to the Commissioner's Report (1912) 205 cities in the United States maintain evening schools with 10,506 teachers and 419,981 pupils. See EDUCATION, RECENT TENDENCIES IN; SCHOOLS, CORRESPONDENCE; SCHOOLS, PUBLIC, PROFESSIONAL; SCHOOLS, PUBLIC, SYSTEM AND PROBLEMS OF. References: T. Balliet, "Organization of a System of Evening Schools" in *Nat. Education Assoc., Proceedings*, 1904, 278; M. Sadler, *Continuation Schools* (1907); "True Function of Evening High School" in *School Review*, Sept., 1904; *Harper's Weekly*, CV (Sept. 23, 1911), 19. G. E. F.

SCHOOLS, CORRESPONDENCE. The first organized instruction by correspondence in the United States began in 1873 under the auspices of a "Society to Encourage Studies at Home," founded by Anna Eliot Ticknor, inspired by an English organization with a similar name. Miss Ticknor retained active management until her death in 1896. The work was open to women only, and in the twenty-four years of its existence there were 7086 students on its rolls. In 1897 the organization was voluntarily dissolved by its officers, partly because, after the death of Miss Ticknor, no one seemed available to replace her, and partly because other agencies, such as the Chautauqua Literary and Scientific Circle and the International Correspondence Schools appeared to be occupying the field.

William R. Harper, later President of the University of Chicago, while an instructor in the Chautauqua summer school (1879) began by correspondence to continue with individuals the work begun in his classes there. The idea was taken up by the Chautauqua management and instruction upon a vast scale was planned, culminating in 1883 in the "Chautauqua University" organized on the basis of correspondence instruction. In spite of the fact that the small fees exacted were not sufficient properly to compensate instructors and officers, the scheme was continued with success until 1900.

Correspondence instruction in connection with a regularly established institution of university grade was first begun at the University of Chicago at its opening in 1892. Dr. Harper, the president, emphasized the correspondence work by organizing it as a regular division of the university. Thousands of students have been enrolled and many of them gain the stip-

ulated amount of credit which is allowed to accumulate toward a degree, provided the student later spends a certain time in residence. A considerable number of other reputable institutions have successfully made use of correspondence instruction, and within five years a large percentage of the state universities and agricultural colleges have exerted themselves to promote correspondence study, largely in agricultural lines.

The most important move in correspondence study by any public agency has been made by the University of Wisconsin through one department of its extension division. The work, begun in October, 1906, with two students, increased regularly and rapidly till in January, 1912, there were 5,936, 37 teachers giving their entire time to correspondence instruction and 27 additional members of the university faculty giving part of their time. The legislature makes large annual appropriations specifically for this work. Other state legislatures have made considerable appropriations for this and other kinds of extension work but no state has so fully as Wisconsin assumed it to be a regular function of the state university.

There is another class of correspondence schools which are purely business enterprises, in which students are solicited by agents and advertisements. Almost every conceivable subject is offered for study. Many of these "schools" are unworthy of consideration but one at least has had a marvellous growth and has powerfully influenced hundreds of thousands of young men who would not otherwise have undertaken systematic study of any kind. The subjects pursued are, in the main, of a technical or trade nature.

See SCHOOLS, PUBLIC, PROFESSIONAL; STATE UNIVERSITIES.

References: E. G. Dexter, *Hist. of Education in the U. S.* (1906); University of Wisconsin, *Bulletin*, No. 285 (1909); Society to Encourage Studies at Home, *Memorial* (1897); U. S. Commissioner of Education, *Report*, 1903, 1069; W. D. P. Bliss, *New Encyclopedia of Social Reform* (1908), 566. G. E. FELLOWS.

SCHOOLS FOR SOCIAL WORKERS. In 1912 there were five special schools for social workers in the United States: (1) The New York School of Philanthropy, organized in 1898 and conducted by the New York Charity Organization and affiliated with Columbia University. The school has an endowment of \$1,000,000 given by the will of John S. Kennedy. Its purpose is to fit men and women for social service in either professional or volunteer work. (2) The Chicago Institute of Civics and Philanthropy organized in 1903. It emphasizes the civic and industrial features of training equally with those concerning the more distinctive philanthropic agencies, institutions and movements. The school has no endowment but

is maintained by tuition fees and individual gifts. It is governed by a board of twenty-five members, ten of whom are connected with universities of the central west. (3) The Boston School for Social Workers, organized in 1904, is maintained by Simmons College and Harvard University. There is opportunity for getting special knowledge and technique by field work and special reports, but all students take the same topics of study. (4) The St. Louis School of Social Economy, organized in 1907. The school is closely affiliated with Washington University. Work in the school earns credits toward degrees in Washington University. (5) The Philadelphia Training School for Social Workers, organized in 1910. This school is under the auspices of the philanthropic organizations in Philadelphia and its faculty is drawn from the social workers and educators of Philadelphia. Several of the large universities have courses and combine them with practical work; thus furnishing training for social workers. See SOCIAL REFORM PROBLEMS; SOCIOLOGY; UNIVERSITY EXTENSION.

H. H. H.

SCHOOLS, GRAMMAR, AND THE GRADES.

By grammar schools or grades is ordinarily meant the grades from the fourth to the eighth inclusive; children from nine to thirteen years old. In some schools there are nine grades. See SCHOOLS, PRIMARY; SCHOOLS, PUBLIC, SYSTEM AND PROBLEMS OF.

G. E. F.

SCHOOLS, HIGH. Schools of secondary grade usually offering a four years' course of study. Most pupils enter the high schools at fourteen to sixteen years of age. See EDUCATION, INDUSTRIAL; EDUCATIONAL STATISTICS; SCHOOLS, HIGH, COMMERCIAL; SCHOOLS, PUBLIC, SYSTEM AND PROBLEMS OF. **Reference:** H. A. Hollister, *High School Administration* (1909).

G. E. F.

SCHOOLS, HIGH, COMMERCIAL. The leading cities in the United States are providing special high school courses, and even special high schools, for boys and girls who intend to enter business. These courses include not only practical training in stenography, typewriting, bookkeeping, and accountancy, but also English, mathematics, a modern language, and natural and social sciences. A good command of clear, direct English is emphasized. Commercial arithmetic replaces advanced mathematics, though algebra and plane geometry are usually retained. A working knowledge of a modern language is sought; instruction in science includes the commercial and industrial applications of the subject; and as a part of secondary education appear certain vital courses in social sciences, such as industrial history, commercial geography, economics, and the study of local institutions and industries.

Some schools offer both a four years' and a two years' course, and provide for transfers from the shorter to the longer course. The graduates of the four years' courses are increasing in numbers, entering higher schools of finance, commerce, and accountancy, and occasionally colleges of liberal arts.

At least nine cities in the United States maintain each one special high school of commerce: Atlanta, Boston, Cleveland, Columbus, Louisville, New York, San Francisco, and Washington. Many others have strong commercial departments in regular high schools. In 1912, 1,913 public schools reported 128,977 pupils studying commercial branches.

See EDUCATION AS A FUNCTION OF GOVERNMENT; MANUAL TRAINING; SCHOOLS, HIGH, MECHANIC ARTS; SCHOOLS, PRACTICAL ARTS.

References: U. S. Commissioner of Education, *Annual Reports*; C. A. Herriek, *Meaning and Practice of Commercial Education* (1904); F. V. Thompson, "Commercial High School and the Business Community" in *School Review*, XVIII (1910), 1-11.

C. D. KINGSLEY.

SCHOOLS, HIGH, MECHANIC ARTS. The first provision in the United States for instruction in the use of tools was made in 1865, when John Boynton of Templeton, Massachusetts gave \$100,000 for the establishment of the Worcester Free Institute. This institute was opened in 1868 as a technical school of college grade, and shop instruction was limited to students of mechanical engineering. The first public mechanic arts high school in the United States was opened in Baltimore in 1883. In rapid succession other cities established similar schools.

The better mechanic arts high schools teach shop work and drawing throughout the four years and are equipped for joinery, wood-turning, pattern-making, forging, and machine shop practice; a few are provided with foundries, so that the entire process of designing and making ordinary machinery may be executed by the students themselves. The curriculum includes, also, English, mathematics, history, and science of the same general grade as that found in other high schools, the practical applications of mathematics and the sciences being emphasized. Foreign language study is required in some of these high schools and is optional in others, Latin being offered in the most of them and the modern languages in all.

A large proportion of the mechanic arts high schools are coeducational, shops being provided for sewing, cooking, millinery, and dressmaking. The elements of nursing, household decoration, dietetics, and kindred subjects are being added, and the physical and biological sciences are being correlated with domestic science.

The pioneers in manual training emphasized the educational value of the tool work. This being conceded, the new movement stresses the underlying principles; and at the same time produces in the shop articles of greater utility than did manual training.

The special success of these schools lies in developing mechanical and mathematical power without neglecting the elements of a liberal education. Consequently some of the graduates enter minor engineering positions, a few enter the trades, and many continue their education in technical schools of engineering, architecture, and agriculture, while a considerable number enter colleges of liberal arts.

The Commissioner of Education states that each of 425 public high schools in the United States in 1911 reported twenty or more manual training students. In these schools 27,178 boys and 15,948 girls were receiving manual and technical instruction.

See EDUCATION, INDUSTRIAL; SCHOOLS, PRACTICAL ARTS.

References: W. Sargent, "Place of Manual Arts in the Secondary Schools" in *School Review*, XVIII (1910), 99-107; A. H. Chamberlain, *Bibliography of the Manual Arts* (1902); C. D. Larkins, "Manual Training High School, Brooklyn, N. Y." in *School Review*, XIII (1905), 741-757; Committee on Articulation of High School and College, "Report" in Nat. Educ. Assoc., *Proceedings*, 1911, 559-567.

C. D. KINGSLEY.

SCHOOLS, HIGH, TOWNSHIP. The township high school has been organized to bring secondary education nearer to all pupils of the public schools. A township trustee or board of directors may establish such a school if in the opinion of the citizens it is justifiable. In some states where a high school is not maintained in the township, it must stand the tuition expenses in another place that is satisfactory. See EDUCATIONAL ADMINISTRATION. References: H. A. Hollister, *High School Administration* (1909); J. F. Brown, *American High School* (1909).

J. V. B.

SCHOOLS, INDUSTRIAL

Juvenile reformatories under the names of industrial schools, now exist in every state in the Union except Arkansas, Idaho, Mississippi, Nevada, New Mexico, North Carolina, South Carolina and Wyoming.

Genesis.—The first juvenile reformatory in the United States was the New York House of Refuge established in 1824. The original law provided: "That the said managers shall have power in their discretion to receive and take

into the House of Refuge to be established by them, all such children as shall be taken up or committed;" and also, "the said managers shall have power to place the said children committed to their care during the minority of such children." This law was intended to establish a different code of treatment for boys from that found in convict prisons, and to establish the placing out system.

Names.—The juvenile reformatory idea looks upon the delinquent boy, not as a criminal to be punished, but as a ward of the state, to be trained and developed in the right direction. There has been an interesting evolution in the names of these institutions. The name "house of refuge" soon became opprobrious and the name "reform school" was substituted; but that also came to have an unsavory flavor and the name "industrial schools" was substituted. Then the industrial schools not intended for delinquent children had to change their names in order to avoid suspicion. The very appropriate name of "training school" was adopted by several institutions. Then schools were named after individuals, like the Lyman School for Boys in Northampton, Massachusetts, and the John Worthy School for Boys in Chicago. The name "agricultural and industrial school" has been applied to the new institution at Industry, N. Y. In other cases a school has been named simply after the community in which it was located, as the Glen Mills School for Boys in Pennsylvania and the St. Charles School for Boys in Illinois.

Difficulties.—The work of the juvenile reformatory is exceedingly difficult. When the home, the church, the Sunday school, the day school, the boys' club, failed and the boy became delinquent, formerly he was sent to the juvenile reformatory. Now he is taken to the juvenile court and if his case seems promising he is placed on probation in charge of a probation officer and he may be replaced on probation once or twice. A large proportion of the children placed on probation do well and are never sent to an institution; but those who prove incorrigible after repeated probations are sent to the juvenile reformatory, older and more depraved than those who were formerly committed.

The difficulty of the task is increased by the fact recently discovered by psychological tests, that probably a fourth of all of the children committed to juvenile reformatories are really feeble minded, and are not amenable to reformatory treatment because they have not the mental foundation on which to build character.

Location.—The task of reformation requires a suitable equipment and the institution is usually located on a farm in order to control the environment and to secure opportunity for free action, pure air and suitable employment and vocational training. In two of the newest

reformatories, one at Industry, N. Y., and the other at Warrendale, Pa., a large farm of from 800 to 1000 acres is subdivided into small farms of from twenty to forty acres, on each of which is a cottage for twenty boys with its own stable, team, cows, chickens, dog, garden, etc. At a convenient central point is an administration building with officers' headquarters and a group of cottages forming a village for those boys who are to receive industrial training by shop instruction.

Personnel.—In the best reformatories employees are selected with great care with reference to their character, habits, language, behavior, and their special adaptability for the task committed to their charge. This is necessary because the boys receive their intellectual and spiritual impressions from those with whom they are in daily contact. It is impossible to cultivate high standards of living unless such standards are maintained by those with whom they must associate. The superintendent, the physician, the head teacher, must be competent to reach a clear understanding of the physical and mental capabilities of the boy in order to apply an effective method. The house fathers and house mothers must be in sympathy with boy life, must know how to appeal to the best there is in the boys and how to maintain discipline without perpetual nagging or undue severity. The teachers, usually women, must be able to inspire ambition and application in the dull and discouraged boys, and awake dormant faculties. A wise woman in the capacity of house mother or teacher learns to appeal successfully to the instinct of chivalry which exists in the heart of every normal boy.

Parole.—All efficient juvenile reformatories now maintain a parole agency consisting of from one to seven agents, whose duty it is, first to discover whether the home of the boy's parents is a suitable place for him; and if not, to locate him in a well selected foster home where he continues under the guardianship and supervision of the agency. The parole agents must be people who can inspire the confidence of the boy and can command the respect and goodwill of the foster parents.

Length of Stay.—The average stay of boys in juvenile reformatories is usually about eighteen months. The superintendents plead for a longer stay in order to give opportunity for fixing character and completing vocational training; but the limited facilities of the public institutions compel a rapid movement of the population. There is a difference of opinion between experts as to the proper time limit, as to whether the boy should be retained for the sake of vocational training or whether he should be sent out as soon as he has established a reasonable state of character.

City Institutions.—Juvenile reformatories for boys are usually state institutions maintained and governed by state boards of trus-

tees. City or county institutions for delinquent boys are maintained by Boston, New York, Baltimore, Pittsburg, Cincinnati, Cleveland, St. Louis, New Orleans. Examples of juvenile reformatories under private control are the Catholic Protectory and the Jewish Protectory near New York, and the Glen Mills School near Philadelphia.

Industrial Schools for Girls.—Formerly delinquent boys and girls were dealt with in the same reform schools, but gradually these institutions have been divided until separate institutions for girls exist in most of the states where juvenile reformatories exist. A very few states still have joint institutions for boys and girls.

It is generally recognized that the problem of the delinquent girl is different from and more difficult than the problem of the delinquent boy. Both buildings and administration for delinquent girls are more expensive than those for delinquent boys. There has been a rapid growth of public sentiment in favor of abolishing the dormitory system and providing a separate room for each girl. This requires greater supervision than the dormitory system. Another important change is the provision of small cottages holding from 15 to 25 girls; each cottage being a separate domestic unit with its own kitchen, dining room, sewing room, living room and outdoor playground. The tendency is in favor of individual study and treatment. Great advances have been made in the efficiency of domestic and industrial training with the employment of special teachers of domestic science, sewing, dress-making, millinery, typewriting, shorthand, etc., with a view to meeting the needs of girls of differing temperaments, mental endowment, and general capability.

Feeble Minded Girls.—Very recently the psychological study of girls has been introduced in several important schools, and has revealed surprising facts which have heretofore been overlooked. It appears that from one-fifth to one-third of the delinquent girls in industrial schools are properly classed as feeble minded, not having sufficient mental endowment to enable them to earn their own way and safeguard their own lives. These poor girls contribute largely to swell the population of houses of ill-fame. The conviction is rapidly growing that when such a girl comes into public custody she should be permanently segregated, both for her own protection and for the protection of society; that her life should be made as normal and comfortable as possible, but that such precautions should be taken as to make it certain that she will not become a mother.

See CHARITIES, PUBLIC AGENCIES FOR; CHILDREN, DEPENDENT, PUBLIC CARE OF; COURT, JUVENILE; REFORMATORIES.

References: S. P. Breckinridge and Edith Abbott, *Delinquent Child and the Home* (1912);

Homer Folks, *The Care of Destitute, Neglected and Delinquent Children* (1902); W. R. George, *The Junior Republic, Its History and Ideals* (1909); H. H. Hart, *Cottage and Congregate Institutions* (1910), Ed., *Preventive Treatment of Neglected Children* (1910); Industrial and Reform Schools, *Annual Reports* (for list see U. S. Census, Volume, *Prisoners and Juvenile Delinquents in Institutions* [1904], 252 *et seq.*); W. D. Morrison, *Juvenile Offenders* (1897); Thomas Travis, *The Young Malefactor; a Study in Juvenile Delinquency, Its Cause and Treatment* (1908); *Proceedings of the White House Conference on the Care of Dependent Children* (1909); C. E. B. Russell, *The Making of the Criminal* (1906); F. H. Wines, *Punishment and Reformation* (1910); D. S. Snedden, *Administration of Juvenile Reform Schools in America* (1907); Am. Prison Assoc. (formerly Nat. Prison Assoc.), *Reports* (1870 to date); *Am. Year Book*, 1910, and year by year.

HASTINGS H. HART.

SCHOOLS, MEDICAL INSPECTION OF. Medical inspection of schools in the United States began in Boston in 1894, tardily following European practice. Eleven cities had adopted it by 1900, 77 by 1906, and 443 by 1911. The state of Massachusetts has state-wide compulsory medical inspection for all cities and towns. The agencies for inspection are, singly or in combination, the teachers, who examine chiefly for defective sight and hearing; school nurses, who observe and treat minor contagious diseases, reporting serious cases, and follow up cases in the pupils' homes; and physicians, who regularly make partial inspection, as for defective sight or for contagious diseases, or thorough physical examinations with a view to discovering defects or organic diseases and suggesting treatment. The administration of medical inspection, reversing its early tendency, is now chiefly controlled by boards of education through their own paid physicians, rather than by boards of health. Out of 443 cities reporting, 337 have the former system, 106 the latter; the total force of physicians employed is reported as 1,415, chiefly in the north Atlantic and north central states; 69 cities have dental inspection by dentists; in some cities dental associations maintain free dental clinics for school children. See HEALTH, PUBLIC, REGULATION OF; NURSES, DISTRICT; SCHOOL HYGIENE. References: L. H. Gulick, and L. P. Ayres, *Medical Inspection of Schools* (1908); "What American Cities are doing for the Health of School Children" in Russell Sage Foundation, Dept. of Hygiene, *Bulletin* No. 401, 1911. K. C. B.

SCHOOLS, NIGHT. Night schools to the number of nearly 1,000 have been organized to meet the needs of boys and girls who are com-

pelled to work during the day, of persons past the school age and regularly employed, and especially of foreigners who wish to learn English and the ways of American citizenship. They are maintained as a part of the regular public school system in more than 200 cities of 8,000 population or over in the United States. They are open and free to all without limitation as to age or sex or nationality, and with sessions of two or two and one-half hours, three to five evenings per week, from three to seven months in the year.

Beginning about 1835 in the United States, these night schools in 1909-10 enrolled 374,364 pupils (about 65 per cent males) with an average attendance of 145,193. In 28 cities of New York 102,812 out of a total enrollment of 125,086 were above sixteen years of age. 60 per cent were in the elementary classes in English, arithmetic, writing, etc. Night high schools were carried on in 67 cities and vocational night schools in 66, enrolling respectively 81,229 and 37,994. In subject, material, and method of instruction, which is individualized to an unusual degree, far greater latitude is allowed than in the day schools.

Frequently large and efficient night schools of high grade are conducted by associations and corporate agencies such as Cooper Union in New York City, Drexel Institute in Philadelphia, and the Young Men's Christian Associations in nearly all the great cities. These institutions usually charge a tuition fee, and emphasize vocational, business, and technical courses. Certain strong institutions like New York University, the University of Minnesota, Georgetown University, and Armour Institute of Technology of Chicago give excellent evening session courses in law and in subjects especially related to commerce and business, which may be counted towards a regular degree.

See EDUCATION, RECENT TENDENCIES IN; SCHOOLS, CONTINUATION.

References: E. G. Dexter. *Hist. of Education in the U. S.* (1906), 541-545; Dutton and Snedden, *Administration of Public Education in the U. S.* (1908), ch. xxvi.

KENDRIC C. BABCOCK.

SCHOOLS, OPEN-AIR. Open-air schools (known in Germany as open-air-recovery, or forest, schools) are recently devised schools for frail, poorly-nourished, or diseased children, in which regular teachers cooperate with physicians and nurses to carry on part or all of the regular school course, with small classes, under conditions combining instruction in the open air, or in rooms one side of which is open to the fresh air, with careful provisions for abundant nourishing food, suitable clothing, the strictest cleanliness (including baths), outdoor play, and enforced periods of sleep or rest. The first experiments were made in 1904 in Charlottenburg, Germany, with backward and physically deficient children rather than those

who were diseased or subnormal. These children in most cases showed marked improvement in weight, vigor of mind and body, disposition toward work and play, and capacity to carry on their school work under the new conditions, even surpassing their fellows in the regular schools. Other German cities, London and others in England, and in the United States Providence, Boston, New York City (which at first used four abandoned ferry-boats for its open air schools), Chicago, Hartford, Rochester and Pittsburg established similar schools with like success, during the next five years.

American open-air schools have thus far aimed primarily at the tubercular child in the early stages of the disease. They have been carried on in almost every case by an alliance—probably soon to be outgrown—between the school authorities and some anti-tuberculosis association, the former providing the buildings or remodeled rooms, the educational equipment, the teachers, and, sometimes, the physicians, and the latter providing the food, special clothing, a nurse, and transportation where needed. Open-air schools are held in winter as well as in summer and autumn, with provision for keeping the temperature for the child at least above 40 degrees. Children are admitted and discharged on the recommendation of principal and physician.

See EDUCATION, RECENT TENDENCIES IN.

References: L. P. Ayres, *Open-Air Schools* (1910); Boston School Committee, "Report of Commission to Investigate the Problem of Tuberculosis among School Children" in *School Documents*, No. 2, 1909; S. C. Kingsley, *Open-Air Crusaders* (1910).

KENDRIC C. BABCOCK.

SCHOOLS, PRACTICAL ARTS. A type of industrial and manual training school intended for girls and based upon the effort to teach them things that will be useful to housewives and mothers, such as cooking, dressmaking, millinery, and a knowledge of the construction and proper use of houses; along with academic training in history and government, and economics. See SCHOOLS, HIGH; MANUAL TRAINING.

A. B. H.

SCHOOLS, PRIMARY. Even under the best conditions a great majority of the children will not remain in school long enough to go to college or even to finish the high school course; hence it is extremely important that the greatest effort be put forth by governmental agencies to make the lower schools efficient. If any school must be neglected, it cannot be that for children between the ages of six and ten. If compulsory education is to be effective the most thought and the richest content should be put into the elementary school.

The development of the elementary school in the United States was slow until well into the nineteenth century. The "district school" sys-

tem put pupils in all stages of advancement under the care of a single teacher, who was expected to satisfy the needs of all from A B C to the sixth reader. There were no grades; no two schools were alike, and each was a law unto itself.

In the colonies during the seventeenth century reading, writing, and the capital laws were taught in obedience to legislative enactment. Spelling and arithmetic were not mentioned though undoubtedly taught. In the eighteenth century arithmetic was officially added, but not generally in New England until the latter half of the century. Spelling and grammar were not differentiated from reading until shortly before 1800, when *Dilworth's Speller* became a popular text. The beginning of grades came when in the more thickly populated places it was found to be cheaper to build school houses with several rooms, and more convenient to give smaller pupils to one teacher and larger ones to another, with little or no thought as to pedagogical propriety.

About the middle of the nineteenth century definite efforts at grading became general, and were aided by the appointment of city superintendents which began about 1840. Now no town of any importance is without its graded schools and superintendent. With the introduction of grades came the terms "primary" and "intermediate," indicating approximately though not sharply the first and second halves of the elementary school period. The fundamental studies of the first three or four grades, continued through the whole period of the elementary school are reading, writing and arithmetic, because of their relation to language, literature and art. The most respected educational authorities hold that reading should not be taught as an end, but that the child's reading vocabulary should grow from the necessity of self-expression in the activities of the school. There is a great variety of opinion among acknowledged leaders as to the content of the first three years of school work. Perhaps the best digested opinion is to be found in the course of study for a fully graded school as recommended by the committee of the National Education Association on elementary education.

Reading, 10 lessons per week, first two years; 5 per week next six years.

Writing, 10 lessons per week, first two years, 5 per week for two years, 3 for two years.

Spelling lists, 4 lessons per week, fourth to sixth year.

Grammar and composition, 5 lessons per week, oral, to sixth year; 5 per week with text, sixth to eighth year.

Arithmetic, oral, 60 minutes per week for two and a half years; 5 per week to seventh year.

Algebra, 5 lessons per week, seventh and eighth years.

Geography, 60 minutes per week, two and a half years; 5 per week to seventh year.

Natural science and hygiene, 60 minutes per week, all eight years.

U. S. history, 5 lessons per week in seventh year and half of eighth year.

General history, oral, 60 minutes per week, all eight years.

Physical culture, 60 minutes per week, all eight years.

Vocal music, 60 minutes per week, all eight years.

Drawing, 60 minutes per week, all eight years.

Manual training, cookery or sewing, a half day each week in seventh and eighth years; periods of recitation, first and second years, 15 minutes; third and fourth years, 20 minutes; fifth and sixth years, 25 minutes; seventh and eighth years, 30 minutes.

See EDUCATION AS A FUNCTION OF GOVERNMENT; EDUCATION, RECENT TENDENCIES IN; EDUCATIONAL STATISTICS; SCHOOLS, GRAMMAR, AND GRADES; TEACHERS, LEGAL QUALIFICATIONS OF.

References: E. E. Brown, "What Are the Essentials in the Elementary School Course?" in Nat. Educational Assoc., *Proceedings*, 1907; Jane Addams, "Foreign Born Children in Primary Grades" in *ibid*, 1897, 104; E. G. Dexter, *Hist. of Education in the U. S.* (1906); Ellen Key, *Education of the Child* (1910); A. C. Perry, *Problems of the Elementary School* (1910); H. Münsterberg, *Psychology and the Teacher* (1909); G. Stanley Hall, *Adolescence, Educational Problems* (1911).

G. E. FELLOWS.

SCHOOLS, PUBLIC, LEGAL RIGHTS OF TEACHERS IN.

A teacher in the public schools must have an official certificate showing that he has the qualifications required in the state in which he expects to teach. A contract is generally void without the possession of such a certificate. A superintendent or other proper authority can revoke a license only for proper cause such as immorality, negligence, or criminal offense. If a school teacher is discharged without cause he may recover compensation. The teacher must perform the ordinary duties pertaining to his office and such other duties as may be stated in his contract together with the duties imposed by the statutes of the state. A teacher need not prove that the school corporation or township has funds in order to recover his salary. Contracts to teach going beyond the term of office of the directors are valid if in making them the teacher does not knowingly enter into it with the intention to forestall successors. The abolition of the school does not annul the contract. If a certificate is withheld maliciously without reason the officer withholding the certificate is liable in damages. In general, teachers are employed by school directors, boards, or trustees. Individuals composing the board have no power to bind the district except when they are convened as a board. See TEACHERS, LEGAL QUALIFICATIONS OF. References: C. W. Barden, *Common School Law* (1878), ch. lvii, 95; H. Updegraff, "Teacher's Certificates" in *U. S. Bulletin of Education*, No. 18, 1911; O. B. Willcox, *Am. and Eng. Encyclopedia of Law* (W. M. McKinney, Ed., 1909). J. V. B.

SCHOOLS, PUBLIC, NORMAL. Definition.—

An institution for the professional training of teachers. Since the growth of schools of edu-

education in connection with the universities of this country the term "normal school" is often used in a special sense designating a school for the training of elementary school teachers.

History.—It seems that the earliest normal school was founded by La Salle in 1685 at Rheims, France. In 1704 August Hermann Franke established a normal school at Halle which still bears his name. He there introduced professional training in Germany whence it has been largely copied in America. Most of the early professional teachers in America received their training largely in the academies. The training of teachers was one of the aims of the academy and charitable schools founded in 1749 through the efforts of Benjamin Franklin. The first typical normal schools of America were founded in Massachusetts in 1839 and 1840 at Lexington, Barre and Bridgewater. They were the result of the combined efforts of Charles Brooks, Henry Barnard and Edmund Dwight in trying to secure higher qualification among teachers. James G. Carter has often been called the "Father of American Normal Schools" because he had opened a private school for the training of teachers as early as 1827. In 1844 New York established its first Normal at Albany and continued to subsidize academies for the training of teachers for a period of thirty years. Every state now supports normal schools except Delaware, Nevada and Wyoming, which have provision for teacher's training in other institutions.

The 270 public and private normal schools now claim an enrollment of approximately 80,000. A teaching force of over 3,000, an income of eight and a half million dollars, and (1910) 15,430 graduates were reported. In their libraries, 1,331,705 volumes are reported having an estimated value of \$1,627,801.

The public normal schools fall into two classes, state and city. The state normal schools are governed often by the state board of education; in some states by a special board of trustees or regents. In Indiana, Iowa, Louisiana and Rhode Island a single central state normal school is maintained. Other states maintain two or more such schools in various parts of the state; Michigan and Wisconsin having one in nearly every county. Normal departments are often a part of colleges and universities. Some of the universities make the training of teachers an essential part of their work, as Ohio University at Athens, and Valparaiso University, Indiana. Requirements for admission vary widely. Many schools admit applicants as students who have successfully completed the studies of the eight elementary grades. Some of the schools that offer a two year course for graduation require the students to have had a two year high school course or its equivalent. An increasing number of public normal schools require a four year high school course for admission. Such

schools are considered to be of collegiate grade and confer degrees. The courses usually include a thorough review of the elementary school branches with the methods for their teaching; a high school course, which can be completed in the normal; and courses in professional studies, such as child psychology, school sanitation and hygiene, observation and practice teaching, school management, class room method, science and history of education. Many of the schools also offer work in psychology, philosophy of education and pedagogy. Recently the normal schools have had to supply special teachers in manual arts, domestic science, agriculture, popular science, home arts, etc. One hundred and fifty-five public normal schools now offer instruction in one or all of these subjects. Public normal schools are found in many of the larger cities as an integral part of the city school system to provide necessary instruction for the local teachers. Private normal schools have flourished in the middle and western states, their enrollment in 1911 was about 9,500. They furnish opportunities for review and study in special subjects. In some states, as in Indiana, if their work is up to certain standards they receive the recognition of the state board of education. Many of these private normals are supported by tuition alone.

In states like Colorado and Kansas temporary public normal schools are established in various sections of the state during the summer months, known as Normal Institutes. Some of the churches, notably the Roman Catholic and Lutheran, maintain normals to train teachers for their parochial schools. Schools of special method in kindergarten work, manual training, teaching of defectives, etc., should also be noted in any study of teachers' training schools.

See EDUCATION AS A FUNCTION OF GOVERNMENT; EDUCATIONAL STATISTICS; SCHOOLS, PUBLIC, SYSTEM AND PROBLEMS OF; STATE EXAMINERS; TEACHERS, LEGAL QUALIFICATIONS OF.

References: W. F. Gordy, *Rise and Growth of the Normal School Idea in the U. S.* (1891); U. S. Commissioner of Education, *Reports* (1891 to date); S. S. Laurie, *Training of the Teachers* (1901); C. J. Merriam, *Normal School Education and Efficiency in Teaching* (1905).
J. V. BREITWIESER.

SCHOOLS, PUBLIC, PROFESSIONAL. Definition.—There is wide diversity of opinion regarding the classes of instruction which should be considered professional. The reports of the United States Commissioner of Education include in the classification, schools of theology, law, medicine, pharmacy, dentistry and veterinary science; and omit engineering, agriculture, education and commerce, which comprise some of the most interesting activities of our public universities and schools.

Organization.—Public professional schools are controlled by the state, divisions of the state, or by the national government; they nowhere include theological schools because of the doctrine of complete separation of church. These schools are coeducational (*see* EDUCATION, COÖRDINATE AND COEDUCATIONAL) in the West and Middle West. In all professional departments, except education, the men far outnumber the women. A great weakness in many state systems is the duplication of courses caused by the separation of the college of agriculture and mechanics arts from the state university and the consequent rivalry which ensues.

Some of the western states also support separate schools of mines, which results in further duplication and weakness. There is much talk of consolidation, but at the present time it has been without practical result. In the southern states separate schools are maintained for the instruction of negroes in agriculture and mechanics arts.

Financial Support.—The support of professional schools other than agricultural colleges and some engineering schools is usually from the funds of the state universities or through special endowments. The agricultural and mechanic arts schools are supported mainly by the federal Land Grant Act of 1862 and federal annual money gifts of \$40,000 to each of the land grant schools besides appropriations for experimental stations.

Law Schools.—Of the 114 law schools reporting to the Commissioner of Education in 1910, 5,449 men and 30 women were enrolled in the 34 public schools, each one of which, with the exception of Howard University, Washington, D. C., was affiliated with a state university. The usual course in a public law school covers three years in the North and West, and two years in the South. A collegiate degree is not required in most of these schools, but the necessity for a higher standard of preparation is felt. Beginning in 1911, two years of college work have been required by Minnesota and Missouri; one year by California, Illinois, Kentucky and Nebraska. From 1912-1913, California and Colorado have required two years of preliminary work, and Kansas and Michigan one year each.

The southern schools do not as yet think they are able to make similar requirements.

Medical Schools.—In 1910, 30 public medical schools, 2 of them homeopathic, reported to the United States Commissioner of Education out of a total of 129 medical schools. They had enrolled 3,745 men and 130 women. The admission requirement for medical schools is on the whole more rigid than that for law schools. In the University of Mississippi a complete medical course of four years is required. Many demand two years' college work previous to matriculation. In some of the state universities a premedical course of two

years' work is necessary, studies so arranged that the student is prepared to begin his professional education at the expiration of this time.

Dental Schools.—792 men and 20 women from eight public dental schools out of a total of 18 reported to the Commissioner of Education in 1910. The course is three years and no previous collegiate attendance is required.

Schools of Pharmacy.—Twenty-three public schools from a total of 79 are reported (1910). The usual course is two years.

Veterinary Medicine.—Six public schools from a total of 20 having a registration of 428 men and one woman were reported in 1910. The usual course is three years.

Normal Schools.—While some of the state universities support departments of education for training of teachers, most of this work is done by public normal schools of which nearly every state supports one or more. In 1909-1910 there were 196 normal schools reporting a total of 3,185 instructors and 79,546 students. There were 17,096 men and 62,450 women. The public schools, both in numbers and attendance far exceed the private schools. Requirements for admission differ widely in the various states. Some require merely the eight grades of the elementary schools to be completed, others, two years' of high school; still others exact the completion of a four year high school course, or its equivalent. They offer four year degree courses which are cultural as well as professional and parallel to the regular college courses and several of them confer the degree of A. B. They also provide for specialization in manual arts, domestic economy, agriculture and domestic science.

Agricultural and Mechanical Colleges.—The "Land Grant" colleges show marked increase in the number of students and instructors, and an improvement in equipment. Short courses, and extension work for the farmers, and summer courses for public school teachers, have been among the more recent activities. The total number of students enrolled during the year ending June 30, 1910, was 80,646. The subjects taught cover a wide field. Agriculture, horticulture, forestry, veterinary science, household economy, mechanical engineering, civil engineering, electrical engineering, mining engineering, chemical engineering, sanitary engineering, textile engineering, architecture, chemistry, pharmacy and general science.

Engineering Schools.—In most of the state universities engineering is taught and the duplication of courses with the agricultural colleges and school of mines in the same state, is a source of weakness to these departments. The usual course is four years and a prior collegiate training is not required.

Schools of Commerce.—These have been organized rapidly within recent years especially in the state universities of Wisconsin, California and Illinois. Their purpose is to in-

struct students in economics and business technique.

Schools of Journalism.—Journalism is the latest pursuit to be recognized as a profession by the establishment of professional courses of instruction. In a number of state universities, schools of journalism have been established, those of the University of Wisconsin and of Columbia University being especially noteworthy.

Tendencies.—Public professional schools have shown a large growth in the last decade, with a healthy tendency to link the schools closely to the life of the people of the state. This has resulted in widening their scope and has disposed the people of the state to be more liberal to this type of education.

See DEGREES, ACADEMIC; EDUCATION, AGRICULTURAL; EDUCATION AS A FUNCTION OF GOVERNMENT; EDUCATION, INDUSTRIAL; EDUCATION, TECHNICAL; SCHOOLS, TRADE; STATE UNIVERSITIES.

References: U. S. Commissioner of Education, *Annual Reports*; N. M. Butler, *Mono-graphs in Education in the U. S.* (issued by

Louisiana Purchase Exposition, 1904); C. F. Thwing, *History of Higher Education in America* (1906); E. E. Slosson, *Great American Universities* (1910).

WILLIAM FREDERICK SLOCUM.

SCHOOLS, PUBLIC, REQUIRED SUBJECTS IN. In some of the states certain courses of study are prescribed for all schools. There is a wide agreement on the fundamental subjects that must be taught and studied. By special enactment certain studies such as scientific temperance, hygiene, agriculture in the rural schools, etc., may be prescribed. The refusal, on the part of a pupil to pursue a prescribed study may lead to his expulsion except in extenuating circumstances. Wherever compulsory education laws are operative private schools must also maintain instruction in required subjects during the compulsory ages. See EDUCATIONAL ADMINISTRATION; SCHOOLS, PUBLIC, SYSTEM AND PROBLEMS OF. **References:** state statutes and school codes; O. B. Willcox, *American and English Encyclopedia of Law* (1909). J. V. B.

SCHOOLS, PUBLIC, SYSTEM AND PROBLEMS OF

The people of the United States take pride in their public schools. So deep seated is the idea that public schools are necessary to the general prosperity of the nation that it is assumed that the schools are as good as any in the world. This ideal is unfortunately not yet realized; there is no national system of schools; the states all have their own systems and no two are exactly alike, yet there is enough similarity so that a foreigner visiting this country would probably at first glance see the likenesses rather than the differences.

Purpose.—The essential feature of the public schools is free instruction for all children, from about the age of five or six, for twelve or more years. The widest differences are to be found in the manner in which this general purpose is carried out, as, for instance, in a poor rural district as compared with a wealthy urban community. The general purpose is the same. The great problem is not necessarily uniformity, but to see how the best possible results can be secured for all children in their surroundings and to prepare them for any circumstances in which they may find themselves. In this the cities have had the advantage, in that larger amounts of property are available for school taxation and the density of the population makes organization and cooperation easier. In so far as the carrying out of the official program indicates success, many cities accomplish this so well that there is little more to be desired; but whether the content of the course of study is nearly perfect

is another question. The course of study has changed from decade to decade. The acquiring of information from text-books has largely given way to the intent to inspire original thinking, to secure first hand contact with nature and art. Whatever the method, the end sought is to make efficient, self-respecting, self-supporting, public-spirited citizens. How this may be accomplished with the schools as they are, or how the schools should be changed so as to accomplish it, is the problem before those in charge of the administration of the schools.

It has been estimated that only about one out of 120 of the population ever reaches college, and one out of 20 gets to high school, and that only from 17 per cent to 25 per cent finish the usual eight grades. The inferences are obvious—if any large proportion of children leave school before the age of fourteen, either the schools do not offer sufficiently attractive programs or else dire necessity compels them to leave school for work.

Grading.—What are known as the common schools have, except in some rural regions, been divided into eight grades (a few localities have nine and a few seven). These are quite uniform in villages and cities, but in rural communities where schools are small the grading is irregular. The consensus of opinion of educators is in favor of so altering the conditions in the country by consolidation of schools as to make grading feasible. Much good has come out of the old fashioned district school taught by a single teacher who had pupils at all stages

of advancement from the primary up to, and including some, high school studies, but modern progress finds the rural district school wasteful and less effective on the whole than the graded school.

Rural Schools.—The country schools present the most important educational problem of the time. Undoubtedly, the general welfare of the people is more affected by the country school than by the city systems, since more than one half of the people live outside of cities. In many states 85 per cent of the children never attend any other than the district school near their own home, hence what shall be taught in that school is all important. If the schools remain as one-room, one-teacher schools there seems to be no solution. Consolidation of several small country schools into one, with a high school for each county seems to offer the most promise. In these there can be a course of study related to rural life and interests. The United States Commissioner in his 1910 *Report* says: "The most important movement affecting the public schools of the country at the present time has to do with economic conditions. It has taken two directions—one agricultural in its aim, the other industrial; or rather the one rural, the other urban." The great arguments in favor of consolidation (already successful in several states, notably Ohio and Indiana) are that there can be secured better teachers, longer tenure of office, better salaries, longer school year, and financial saving. With consolidation the children are transported in public vehicles specially provided.

Vocational Instruction.—Of the 24,000,000 children between 5 and 18 years of age but few more than 500,000 are receiving instruction leading toward any vocation, and these include clergy, lawyers, doctors, engineers, teachers and nurses. The strong trend of educational opinion now is that, beginning with the sixth grade, there should be an opportunity for pupils to have instruction leading toward some vocation. Where this has been accomplished the pupils show a greater tendency to remain through all the grades and the high school. School statistics show that practically all children attend through the first three grades, about ten per cent are lost between the third and fourth grades, and more are lost each year after that, so that the last two grades of the common school, and the high school, seem to serve only the select few. It would seem that a democratic government should find some way to prepare its citizens better than by the little reading, writing and arithmetic that can be acquired in the three or four grades which are attended by all children. It is coming to be believed that the use of hand work and studies which are the foundation for vocations will accomplish the double purpose of inducing children to remain longer in the public schools, and of better fitting them for self-support and

good citizenship. In many cities the first has been clearly demonstrated. The second is as yet somewhat problematical, that is, as yet the public schools have not generally offered enough vocational work fully to test the plan; but in a few places the results have been very satisfactory.

The argument for vocational work in the public schools is: "A self-governing people must be self-reliant and of responsible character. It is well known that the majority of the inmates of prisons and jails are those without regular occupation, and unskilled in any art or craft. If the public schools can insure sufficient foundation for pupils to become skilled workmen and self-supporting citizens then there is likely to be less of crime and a higher grade of citizenship." Such results would amply warrant any necessary expense in equipment and maintenance of the schools. Where manual training has been fully introduced it has never been dropped, but rather there has been a tendency to carry it further toward instruction in trades. This indicates public need and desire. Again there is nothing but tradition to support the practice of schools offering intellectual training only.

Foreigners in Schools.—The public school problem has been much complicated, especially in the large cities, by the presence in great numbers of the children of immigrants who are at first unacquainted with the English language, and whose home surroundings are not in accord with American ideals. In some parts of several states the work of the public schools is actually conducted in a foreign language. In spite of the difficulties some remarkable results have been accomplished, notably on the east side in New York.

The graded system undoubtedly offers much to criticize, especially that it has a tendency to stamp out individuality, to hold back the bright children, to wait for the dull ones, and cater to mediocrity. These difficulties have to be solved by skilled teachers and wise supervision, for it is manifestly impossible to arrange for the ideal instruction for the individual in cities where there are thousands of children in single school houses, or indeed anywhere, if more than a score of children are under the care of a single teacher.

Too Few Teachers.—There has never been a supply of well trained teachers equal to the demand. Still more difficult will it be, at least for a time, to find enough teachers if the public schools generally take up vocational training. "The fact that so many Normal School students have always taught before entering upon their professional courses indicates a lamentable lack of standard, more especially in the rural districts. As a matter of fact, we are not training enough teachers to take the places of those who drop out each year. Teaching must be made more attractive by higher salaries before we can hope to recruit enough

students for our normal and training schools to insure trained teachers in the grade schools" (United States Commissioner Report, 1910, II, 26).

Compulsory Education Laws have so increased the school attendance as further to complicate the problem. In some states they have been effective in bringing into school practically all children subject to the provisions of the laws. Although this reduces the number of teachers proportionally to pupils, it also indicates progress in public education. Other indications of progress in recent years are the remarkable growth of high schools, and the increased number of elementary schools with the full eight grades. The transportation of children to school at public expense has spread in many states and, through consolidation of schools, has not only been the means of improving instruction, but also of bringing children to school at an earlier age.

Few communities no matter how remote or sparsely settled in the whole country are now without school privileges. In one state there are 2,000 schools each having less than ten pupils, but these very schools are the ones that most need attention and assistance. So much more are the rural schools in need than those in cities that the National Education Association at the annual session of 1911 appointed a large committee of prominent educators to conduct a thorough investigation of all the conditions affecting them. The purpose is to bring about if possible a system of standardization, closer supervision, better trained teachers, better teachers' salaries, better high school privileges, and vocational instruction for the rural districts.

Attitude of the Public.—The attitude of the public toward expenditure for educational purposes is rapidly changing. Not only have people, in general, ceased objecting to expenditure for what are regarded as necessities in the schools, but they recognize that the sphere of public education is constantly widening. What was necessary yesterday is not enough for today and tomorrow and next year. In a democracy the public schools reflect social progress, so that the schools are now rapidly accepting responsibility for public health (*see*) by means of medical care for children. It is now known that much that has been called stupidity or backwardness in children is attributable to defective eyes, ears or throat, so the most progressive of the city systems employ medical examiners for the schools. Other directions in which public education is progressing are toward: corrective and therapeutic physical education in properly equipped gymnasiums; provision for bathing in schools and instruction in this respect that will reach through the schools to the homes; the prevention of disease by providing sanatorium schools for those affected by tuberculosis; the feeding of children; establishment of public super-

vised playgrounds; practical work in domestic science and domestic art; coöperation of the public libraries with the schools in cities and establishment of travelling libraries for small towns and the country; provision for school gardens; vacation schools of vocational nature; encouraging village improvement and tree planting organization, etc.

The common schools are by no means the same in all the states nor in all parts of the same state, but as a definite statement of what many schools are and what educational leaders think all schools should be see the program for a fully graded system at end of article on PRIMARY SCHOOL.

See TEXT BOOK LAWS; and under EDUCATION; SCHOOL; SCHOOLS.

References: A. S. Draper, *Supervision of Country Schools* (1904); E. G. Dexter, *Hist. of Education in the U. S.* (1906); A. Gove, "Rise of the Superintendent" in *Educational Review*, XIX (1900), 519; "School Law, Digest of State Systems" in *U. S. Education Report*, 1904, I, 249-518; O. B. Willcox, "Schools" in *American and English Encyclopedia of Law* (1909); *Am. Year Book*, 1911, 805-808, *ibid*, 1912. G. E. FELLOWS.

SCHOOLS, PUPILS IN, LEGAL RIGHTS OF. See PUPILS IN SCHOOLS, LEGAL RIGHTS OF.

SCHOOLS, REFORM. See SCHOOLS, INDUSTRIAL.

SCHOOLS, SUMMER. The summer school is now a recognized and integral part of the permanent educational organization of the country, whether privately managed or supported wholly or largely from state or local funds. Its development falls within the last forty years, but the first five years of this period saw the rise of summer schools typical of practically all those which have followed—the specialized schools, like the Anderson, or Agassiz School for the study of biology, on Penikese Island, Massachusetts (1873), and the Concord School of Philosophy (1879); the Sunday School Assembly at Chautauqua Lake, N. Y. (1874); the Martha's Vineyard Summer Institute (1878); and the college or university summer schools at Amherst College and the University of Virginia (1876).

Since 1900 summer schools have multiplied rapidly. At the present time their best development seems to be through intimate or organic connection with universities, colleges, normal schools, and similar recognized agencies whose standing and reputation for wise and unmercenary services are guarantees of sound instruction and practical organization.

In 1911 summer schools totalling 477 were listed by the United States Bureau of Education. The sessions varied from three weeks to twelve weeks, the greater number running for six weeks. The extent of the influence of

some of these may be estimated from the figures for enrolment: Columbia University, 2,973; University of Chicago (one of the four regular quarters of the year), 3,249; the Summer School of the South (held at the University of Tennessee), 2,480; Harvard University, 1,031; University of California, 1,950.

The faculties of summer schools are usually made up largely from the teachers of the regular staff of the institutions conducting them, supplemented by distinguished teachers and lecturers from other parts of the country or from abroad. Tuition is usually charged, even in the schools supported mainly by the state, but the fees are never large. Very few summer schools have specific, rigid, or high entrance requirements, though many of the schools connected with higher educational institutions insist on regular entrance requirements for persons who ask for credit toward a degree for their work.

The scope of the work in these schools varies greatly, from coaching for teachers' examinations of the lowest grade to the highest scientific research. In 1893, 88 per cent were of the general or Chautauqua type, and 6 per cent of the pedagogical type; by 1900 the proportions were respectively 27 and 19 per cent. While nearly all summer schools lay special emphasis upon courses for teachers, those maintained by scores of colleges and universities usually offer also many regular college courses which are taken by regular students in large numbers for removal of deficiencies, or for accumulating additional credits with which to shorten the time for completing the regular four years' college course.

Besides meeting a real demand from a great and earnest constituency, many institutions are impelled to maintain summer schools through a desire to make their expensive educational plants do service for a much greater portion of the year than the usual nine or ten months.

See EDUCATION, RECENT TENDENCIES IN; UNIVERSITY EXTENSION.

References: U. S. Commr. of Education, *Annual Reports* (1899-1900), 320-324, (1910-1911); E. G. Dexter, *Hist. of Education in the U. S.* (1906), ch. xxvii.

KENDRIC C. BARCOCK.

SCHOOLS, SUPERINTENDENTS OF. The title superintendent of schools is much used to designate the chief school officer of a county or a city. The county superintendent of schools, sometimes called commissioner of schools, is usually elected for a term varying from one to five years; two in about 25 states. In a few states he is an appointee of the state superintendent of public instruction or the state board of education. In New York, Virginia, and Nevada his jurisdiction is a district not coextensive with a county. Connecticut, Maine, Massachusetts, New Hamp-

shire, Ohio, and Rhode Island have no county superintendents but only town or township supervisors.

The qualifications, other than political availability, for the office of county superintendent are fixed by law, and include, as a rule, at least one year of experience as a teacher and the holding of a specified grade of teacher's license or a diploma from a normal school or college; exceptions occur in weak counties where the office is combined with some other county office, *c. g.*, probate judge. The wide range of salaries is shown in figures for several typical states: California, \$400 to \$4,800; Illinois, \$1,250 to \$7,500 (Cook County or Chicago); Mississippi, \$800 to \$1,800; and Pennsylvania, \$1,000 to \$2,000.

The duties of the county superintendent usually include: visiting all rural and village schools once or twice a year; examination and certification of teachers, independently or in coöperation with state authorities; enforcement of compulsory education laws and uniform courses of study for the county; apportionment of state and county school moneys among the districts; supervision of teachers' institutes; making an annual report to a state education office.

The city superintendent of schools is usually chosen by a city board of education yearly, sometimes for a term, occasionally for an indefinite period. Unlike the county officer he need not be a resident of the locality, and frequently he is called from another city or another state. His duties include the direct supervision of the curriculum, instruction, administration, and discipline of the city schools; the recommendation of teachers to the board for appointment, promotion, discipline, or dismissal; the upkeep of the buildings and grounds, and plans for extensions; and the presentation of annual reports to the board and to the state officers of education. Salaries range from about \$750 to \$10,000 (Chicago and New York City). The average is slightly above \$2,000.

See EDUCATION, RECENT TENDENCIES IN; and under SCHOOLS, PUBLIC.

References: *State Statutes and School Codes*; Supt. of Public Inst. of Illinois, "The County Superintendent" in *28th Biennial Report*, 1908-1910, 296-320. K. C. BARCOCK.

SCHOOLS, TRADE. Development.—Trade schools are of comparatively recent origin in the United States: all such institutions in existence here have been established within the last half century. The necessity for them arose out of the passing of the older apprenticeship system. When the old-time master workman who trained the apprentice in all branches of his trade, gave place to the large American industry with its complex machinery and wide division of labor some new means of developing all round skilled workers became

necessary, and the trade school followed to fill this need.

No common standard has been fixed for trade schools and for this reason they cannot be closely classified. In general, however, there may be said to be four types, according as they are: (1) conducted as a part of the public school system; (2) supported by endowment or private benevolence; (3) operated by business corporations as a part of their system of apprenticeship; (4) dependent upon tuition fees and usually operated for profit.

In 1910 the United States Bureau of Education listed and tentatively classified 142 schools for white persons in the United States which give either complete trade training, preapprentice trade training or supplemental industrial instruction. In addition a list of fifty-three schools for negroes was published, but no attempt was made at classification further than to indicate the trades in which some instruction is offered. Twenty-two Indian schools and twenty-eight technical high schools were also added.

The report of the United States Commissioner of Labor for 1910 describes the work of 197 schools which offer trade training. These include both day and evening schools of all types, for all races, and for both sexes. Many of these are primarily academic in aim, but trade training has been added to meet the demand for a more practical education.

Public.—Four states have provided for state-aided schools offering trade training, the subsidies being conditioned upon approval of the course of study by the state authorities. Some others have enacted laws authorizing school districts to establish trade schools. In Massachusetts fifteen independent industrial schools had been approved prior to Oct. 1, 1911. The instruction given in these schools is more in the nature of preapprentice training. In New York vocational or "factory" schools are conducted in which a part of the time is devoted to study and the remainder to factory or shop work. In 1910 Connecticut established two schools to be supported entirely by state funds. The law in New Jersey grants aid to the maximum limit of \$7,000 to industrial schools, provided the local authorities expend an equal amount not to be less than \$3,000.

The Milwaukee School of Trades, organized as a private school in 1906 and taken into the public school system in 1907, is an example of the public trade school. Both day and evening classes are conducted and a department for girls has been added. The school is under the control of the city board of school directors and an advisory committee composed of five representative employers of the city. Applicants for admission must be at least sixteen years of age and able to read and write English and do simple problems in arithmetic. Tuition is free except to non-residents. In the day school for boys thirty-six hours a week is de-

voted to actual practice work and about eight hours to study of cognate academic subjects. Two-year courses are offered in pattern making, machine operation and tool making, and carpentry and woodwork; the course in plumbing and gas fitting is one year in length. The School of Trades for Girls offers courses in dressmaking and millinery.

Endowed.—The Williamson Free School of Mechanical Trades opened at Williamson School near Philadelphia, Pennsylvania, in 1891, is a trade school of the philanthropic, or endowed, type. It provides free support and instruction and attempts to develop skilled workers capable of doing journeymen's work. Trades taught are bricklaying, carpentry, stationary engineering, machine operation, and pattern-making. In the admission of candidates, who must be over 16 and under 18 years of age, preference is shown to Philadelphia and other parts of Pennsylvania. The course for each trade covers three years. A part of the time each year is devoted to school and a part to shop-work. A diploma is given upon the completion of the course and effort is made to secure employment for graduates.

Business Concerns.—The apprenticeship school of R. Hoe and Company, printing press manufacturers of New York, is representative of industrial schools operated by business corporations. This school was established in 1872 and is one of the oldest of its kind in the country. Academic classes are conducted from October to June and instruction is given every day in the week from 5:20 to 6:45 p. m. Entering apprentices must be between the ages of 16 and 18 and must have had at least four years of previous schooling. The course is of three and one-half years duration and attendance of all apprentices is compulsory. In addition to trades, English, arithmetic, geometry, mechanics, and freehand and mechanical drawing are taught. In some other schools of this type academic instruction is offered during regular work hours, and the apprentice is paid for attendance as for the performance of his other duties.

Tuition Schools.—Schools depending upon tuition fees usually offer short-term courses, and confine their efforts to the more easily learned occupations such as watch-making and plumbing for boys, and millinery and dress-making for girls.

See EDUCATION, TECHNICAL; SCHOOLS, HIGH, COMMERCIAL; SCHOOLS, HIGH, MECHANIC ARTS; SCHOOLS, PUBLIC, PROFESSIONAL.

References: A. D. Dean, *Worker and the State* (1910), 147-317; U. S. Comm'r. of Educ., *Annual Reports*, 1910, 223-253; U. S. Comm'r. of Labor, *Annual Reports*, 1902, 1910; National Society for the Promotion of Industrial Educ., *Bulletin No. 11*, 1910; Mass. Commission on Industrial Educ., *Reports* (1906-1908); N. Y. State Dept. of Labor, Bureau of Labor Statistics, *Annual Report*, 1908. K. C. BABCOCK.

SCHURZ, CARL. Carl Schurz (1829–1906) was born at Liblar, Rhenish Prussia, March 2, 1829. For his participation in the revolution of 1848–49 he was obliged to leave Germany, and lived for a time in Switzerland, Paris, and London. In 1852 he came to America, and in 1857 was an unsuccessful Republican candidate for lieutenant-governor of Wisconsin. He was a delegate to the Republican national convention of 1860, and the next year was appointed minister to Spain, but resigned to enter the Union army, where he rose to the rank of major-general. After the war he entered journalism, serving as Washington correspondent of the *New York Tribune*, establishing the *Detroit Post*, and editing the *St. Louis Westliche Post*. From 1869 to 1875 he was United States Senator from Missouri. He was one of the leaders of the Liberal Republican movement in 1872, but returned to regular party allegiance in 1876 and supported Hayes. He was rewarded with the office of Secretary of the Interior, which he held throughout the Hayes' administration. From 1881 to 1884 he was one of the editors of the *New York Evening Post*. In 1884 he became an Independent and supported Cleveland. He was an earnest champion of civil service reform, and from 1892 to 1901 was president of the National Civil Service Reform League. He died in New York on May 14, 1906. He wrote *Henry Clay*, 2 vols. (rev. ed., 1899), and *Abraham Lincoln* (1891). See RECONSTRUCTION; REPUBLICAN PARTY. References: Carl Schurz, *Reminiscences* (1907); J. F. Rhodes, *Hist. of the U. S.* (1893–1905); National Civil Service Reform League, *Reports* (1892–1901).

W. MacD.

SCIENCE, PUBLIC. Outside of the military art, the American colonies felt no governmental responsibility for the advance of knowledge about the physical universe except indirectly through colonial aid to colleges in which astronomy was a branch of study.

Federal.—Under the Federal Government, however, scientific departments were early established; first by the designation of Hutchins as geographer as early as 1785 who was employed to survey the boundary lines of the United States; later, in all the boundary commissions, experts in astronomy and surveying were used.

In 1807 was provided, and in 1817 was established, the Coast Survey (*see*) intended for the practical purpose of aiding navigation, and requiring trained scientific men. After a period of quiescence it was reorganized in 1832. In 1802 was also established the Academy at West Point which is essentially a government technical school. By the bequest of James Smithson in 1856 the United States acquired a fund out of which was constructed the Smithsonian Institution (*see*), which is an institute of research. In 1844 was established the Naval

Observatory (*see*), nominally to assist in preparing data for navigators, practically as a scientific concern. In the fifties the Patent Office published a series of volumes describing improved live stock. In 1862 Congress made a great appropriation of government land for agricultural colleges throughout the union. (*see* Morrill Land Grant); later followed the Hatch Act of March 2, 1887, the first appropriation for agricultural experiment stations, which in most states have been united with the agricultural colleges. The creation of a bureau of agriculture in 1862 which in 1889 was made an executive department, marks the beginning of scientific efforts to improve the husbandry of the country.

In 1886 a division of forestry was created, and organized as the bureau of forestry in 1902; in 1880 came a division of foods, which in 1902 became the bureau of chemistry. The creation of the Tariff Commission (*see*) in 1909 was intended to provide for a scientific study of conditions of manufacturing abroad. Scientific tests are used by the custom-houses in the valuation of imported sugar. The government gives facilities for medical investigation, and keeps up a medical museum in Washington. A large corps of scientific experts is employed in the patent office and trained engineers in the reclamation (*see*) projects and conservation (*see*) projects. The army and navy engineers are constantly engaged in the scientific study of the implements and methods of warfare. In these and other ways the Federal Government has subsidized and promoted science.

State.—The states have made themselves responsible for scientific training and investigation principally through the state universities and experiment stations, supplemented by special schools of mining and agriculture. These necessarily include scientific research; the development of the public regulation of health has also made necessary the appointment of trained scientific medical men. Many of the states have supported, alone or in coöperation with the Federal Government, geological surveys intended to reveal the wealth of mineral and soil.

Municipal.—Municipal and local governments have made use of science in the public service chiefly in the public health departments. Serums for preventing smallpox, diphtheria, typhoid fever, and other diseases are prepared under the direction of state or local officials.

See EDUCATION AS A FUNCTION OF GOVERNMENT; HEALTH, PUBLIC, REGULATION OF; OBSERVATIONS, PUBLIC.

References: *Annual Reports*, Geological Survey; Bureau of Weights and Measures; Coast Survey; Geological Survey; Academy of West Point; Naval Academy; Smithsonian Institute; Naval Observatory; Patent Office; Bureau of Education; Bureau of Forestry; Bureau of Chemistry; Department of Agricul-

ture; State Universities; Secretary of the Interior; Secretary of Agriculture; Technical Schools; *Statistical Abstract*; U. S. Census Bureau; *Statistics of Cities Having a Population of over 30,000* (1902 to date); J. S. Morrill, *U. S. Naval Observatory* (1903); R. Rathbun, *U. S. National Museum* (1905); U. S. Marine Hospital Service, *Yellow Fever Institute* (1902); U. S. Department of Agriculture, Experiment Station Work, *Annual Reports* (1890 to date). ALBERT BUSINELL HART.

SCIENTIFIC MANAGEMENT OF BUSINESS.

Scientific management of business endeavors to substitute science for rule of thumb, harmony for discord, and coöperation for individualism, in all the relations between laborers, foremen, department heads and any other divisions in which the particular business may be divided. Its purpose is to secure the maximum output from the forces of men or power used. The system is based on the following principles. (1) A prime necessity is to do away with "soldiering" or "hanging it out" by eliminating the reasons therefor, and by finding the one best method and the one best implement which the laborers should use. To find these out requires accurate and minute studies in motions, in methods of work and in the efficacy of different types of implements. Every single act of every workman is reduced to a science, be his work that of shoveling, brick laying, carrying pig iron or any other common laborer's task.

(2) The workingman must be selected by picking out from the ordinary men those who are specially fitted to a particular type of work. This must be preceded by a scientific study of the pull or push on the man's arms, or other fatiguing elements entering into his work, in order to find out what percentage of the day a man must work and what percentage of the day he must rest in order to produce his maximum output. These studies have frequently led to a definite shortening of the hours of work, and to requiring the laborer to take the proper periods of rest in the proper sequence to periods of work.

(3) The workingmen being selected for definite tasks, another essential is to secure, with absolute uniformity, their good will, their ingenuity and their hard work through intimate friendly coöperation between the management and the men.

(4) The weaker must then be scientifically educated and developed through the friendly assistance of those over him, neither coërcing him nor leaving him to his own unaided devices. Upon the management is placed the burden not only of developing a science for each element of the man's work but of planning his work carefully. This involves a planning room with ample records.

(5) The whole leads up to the entire reorganization of the work of the business, so

as to make the organization wholly functional, that is, to place each man at a definite task for which he has been carefully and thoroughly prepared.

Significant results have already been secured by the adoption of science in business. There are now in the United States at least 50,000 workmen in shops so organized at salaries ranging from 30 per cent to 100 per cent higher than before; and in these shops the output per man and machine has been practically doubled. A few men in government positions also are endeavoring to apply these principles of business science to governmental matters.

See BUSINESS, GOVERNMENT RESTRICTION OF; LABOR AND WAGES.

References: F. W. Taylor, *Principles of Scientific Management* (1911); *Shop Management* (1911); F. B. Gilbreth, *Primer of Scientific Management* (1912); "Scientific Management" in Dartmouth College, *Tuck School Conference* (1912); W. D. Scott, *Increasing Human Efficiency in Business* (1911); Josephine Goldmark, *Fatigue and Efficiency* (1912).

CLYDE L. KING.

SCIOTO COMPANY. An informal and speculative organization, composed of prominent Americans, which attempted (1787-92) to dispose of 5,000,000 acres of land covered by an option of the Ohio Company (*see*). Joel Barlow, its agent in Paris, sold the right to purchase 3,000,000 acres to a French subsidiary company, which then sold large tracts to royalist emigrants. Several hundred of these reached the Ohio late in 1790 and settled at Gallipolis. Indian wars hindered their settlement and meanwhile the American organization failed. As no money had been paid by the Scioto Company the emigrants could not secure titles, but Congress came to their relief and made a donation of 25,200 acres. See NORTHWEST TERRITORY; OHIO COMPANY; PUBLIC LANDS AND PUBLIC LAND POLICY. References: "Centennial Anniversary of the City of Gallipolis" in *Ohio Archaeological and Hist. Quart.*, 1891; J. B. McMaster, *History of the U. S.* (1907), II, 146-151. P. J. T.

SCOTT, WINFIELD. Winfield Scott (1786-1866) was born in Virginia, June 13, 1786. He was admitted to the bar in 1806, but in 1808 entered the army, and in the War of 1812 served in Canada. In 1814 he was made brigadier-general, and after the close of the war major-general. In 1832 he was in command of the federal troops at Charleston, S. C., during the nullification excitement; from 1835 to 1837 he was engaged in the Seminole War; and in 1839 secured a peaceful adjustment of the "Aroostook War" in Maine. He was a Whig candidate for the presidential nomination in 1839. In 1841 he became commanding general of the army. His success in the Mexican War made him a popular hero, but

with President Polk he was not on good terms; and Polk not only hesitated to send him to the front, but interfered with the plans of the campaign, and was more than once on the point of removing him. In 1852 he was nominated for President by the Whigs, but was defeated, receiving 42 electoral votes against 254 for Pierce. In 1855 he was brevetted lieutenant-general. He loyally stood by the Union in 1861, but retired from the army in October, 1861, and died at West Point, N. Y., May 29, 1866. See WARS OF THE UNITED STATES; WHIG PARTY. References: Winfield Scott, *Memoirs* (1864); E. D. Mansfield, *Life of Gen. Winfield Scott* (1846); M. J. Wright, *General Scott* (1894). W. MACD.

SCRATCHING. A term signifying the act of a member of a political party who withholds his vote from one or more of the regular party candidates while voting for the remainder of the ticket. See BALLOT; CUT TICKET.

O. C. H.

SCRIP. In case a corporation has used its surplus profits in improving its property, and the directors desire to pay a dividend in rights to be realized in the future, such a resolution as the following may be passed by the directors:

Whereas, this company has expended out of its earnings for the purpose of construction and equipment, in the purchase of real estate and other properties, amounting to a sum equal to a ten per cent dividend upon the capital stock of the corporation. Now, therefore, it is resolved that a certificate signed by the President and Treasurer of this company be issued to the stockholders, serially, declaring that such stockholder is entitled to ten per cent of the amount of the capital stock on the shares held by him, payable at the option of the company out of its future earnings, or convertible into stock of the company whenever the company shall be authorized to increase its capital stock.

Negotiable certificates when issued in accordance with such a resolution as the above are known as scrip. They can be listed on the stock exchanges and dealt in like ordinary shares of stock. Their value will depend on their prospects of redemption in cash or stock.

See EXCHANGES, BUSINESS; SECURITIES, FEDERAL COMMISSION ON; STOCKS AND BONDS.

References: E. S. Mead, *Corporation Finance* (1912); W. W. Cooke, *Treatise on Stock and Stockholders, Bonds, Mortgages and General Corporation Law* (1894), II, ch. xxxii; A. W. Machen, Jr., *A Treatise on the Modern Law of Corporations* (1908), II, 1348, 1356.

E. S. MEAD.

SCRUB RACE FOR THE PRESIDENCY. A derisive phrase applied to the personal contest for the presidency in 1824-5, between John Quincy Adams, Henry Clay, Andrew Jackson, and William H. Crawford, in which regularly organized parties were lacking. The electors failing to make a choice, the House of

Representatives chose Adams. See DEMOCRATIC PARTY; PRESIDENTIAL ELECTIONS.

O. C. H.

SEA POWER. A term long current but made classic by the book of Admiral Mahan on *Influence of Sea Power*, published in 1890. His thesis is that in war among maritime powers victory is reached not by picking up colonies or ports, but by destroying the enemy's main fleet; after which the colonies must inevitably fall. The book was adorned by a wealth of illustrations from naval history and was a powerful influence in inducing England, Germany, and the United States to enter on plans of naval expansion. The principle of sea power is becoming more important for the United States because it includes the question of the future control of the Pacific Ocean. See COAST DEFENSE; MARITIME WAR; MILITARISM; NAVAL VESSELS; WAR, CARRYING ON; WARS OF THE UNITED STATES. References: A. T. Mahan, *Influence of Sea Power upon History, 1660-1783* (1890), *Influence of Sea Power upon the French Revolution and Empire, 1793-1812* (1892), *Interest of America in Sea Power, Present and Future* (1897).

A. B. H.

SEAL FISHERIES. In 1870 the American government granted to the Alaskan Commercial Company a monopoly right to take male seals on the Pribilof Islands during the breeding season. Finding that the increasing value of the fur attracted outside adventurers who claimed the right to kill seal outside the three-mile limit, the government (in 1881 by treasury regulation, and in 1886 through directions of Secretary Manning) claimed jurisdiction over Bering Sea and power to protect the seals outside the three-mile limit. In 1886 it began seizure of Canadian ships engaged in killing seal.

Diplomatic negotiations, opened by Secretary Bayard in 1887, to secure an international agreement for coöperation, or concerted action for international protection of seals, were suspended in 1888 at the request of the Canadian government.

When James G. Blaine became Secretary of State under Harrison, in April, 1889, he took up the question with great vigor, asserting special jurisdiction under the treaties of 1867; declaring that the destruction of the seals was *contra bonos mores*; and asserting that Bering Sea was not part of the Pacific Ocean.

Congress by statute treated Bering Sea as a *mare clausum*, authorizing further captures, which were followed by renewed protests and a lively and increasingly irritating diplomatic discussion.

Meantime, by suggestion of Secretary Blaine, a *modus vivendi* was arranged restricting sealing, pending results of an arbitration (June 15, 1891).

SEALER OF WEIGHTS AND MEASURES—SEAMEN, STATUS OF

Negotiations for arbitration resulted in a treaty, signed February 29, 1892, and approved by the Senate a month later, providing for submitting the dispute to a tribunal of seven arbitrators—jurists of distinguished reputation and, if possible, acquainted with the English language—two chosen by the American President, two by the British Queen, and one each by the President of France, the King of Italy and the King of Sweden and Norway.

This tribunal met in 1893 at Paris, Baron de Courcel, the French arbitrator presiding. It decided that the United States had no property rights in fur seals outside the three-mile limit, recommended international regulations governing the fisheries, and assessed damages against the United States for seizure of Canadian vessels.

In addition to its judicial decision, the commission under the terms of the treaty prescribed regulations for protection of the fur seals for five years by joint action—including the establishment of a close sea north of 35° from May 1 to July 31, and prohibiting pelagic sealing within sixty miles of the Pribilof group. On April 6, 1894, legislation of Congress was approved for executing these regulations.

The British claims for seizures were finally adjusted by a mixed commission of two, appointed under convention of February 8, 1896, and sitting at Victoria. It reached a decision December 17, 1897, without resort to an umpire. The awards, amounting to \$473,151.26, were paid from an appropriation approved June 15, 1898.

The inefficiency of the restrictive regulations provided by the tribunal of 1893, led to an arrangement for a meeting of experts November, 1897. The whole question was referred to the Anglo-American commission of 1898, which adjourned in February, 1899, without any definite action.

A convention concluded at Washington on July 7, 1911, between the United States, Russia, Great Britain and Japan, primarily aiming to protect the seals in Bering Sea, prohibits to the subjects of those four powers pelagic sealing in the Pacific north of 30° for fifteen years.

See ALASKA; ARBITRATIONS, AMERICAN; FISHERIES, INTERNATIONAL; GREAT BRITAIN, DIPLOMATIC RELATIONS WITH; WATER BOUNDARIES.

References: D. R. Dewey, *National Problems* (1907), ch. xiii; John W. Foster, *Dipl. Memoirs* (1909), II, 20–50; J. B. Henderson, *Am. Dipl. Questions* (1901), 3–29; J. B. Moore, *Am. Diplomacy* (1905), 97–104. *Int. Arbitrations* (1898), I, 755–961, III, 2123–2131, V, 4759, 4763, 5067, *Digest of Int. Law* (1906), I, i 70–o 73; J. D. Richardson, *Messages* (1898), IX, 474–498, 691–693; F. Snow, *Am. Dipl.* (1894), 471–509; S. B. Stanton, *Behring Sea Controversy* (1892), ch. vi; *Am. Annual Cyc.*, 1891, 834–836, 1893, 79–86; *Am. Hist. Leaflets*, No. 6 (1894–1901); *Am. Jour. Int. Law*, I (1897),

742–748; *Harper's Mag.*, LXXXII (1891), 766–774; *Nat. Geog. Mag.*, X (1899), 425; *No. Am. Rev.*, CLXI (1895): 693; *Sen. Ex. Doc.*, 53 Cong., 2 Sess., No. 177 (1894), VII; bibliography in A. B. Hart, *Manual* (1908), § 193.

J. M. CALLAHAN.

SEALER OF WEIGHTS AND MEASURES.

An official appointed, by the city, usually in accordance with the terms of a state law, one whose duty it is to test all weights, scales, steelyards, and measures used in the municipality. He is appointed for two or more years; sometimes he is paid a salary and sometimes derives his remuneration from fees. He has power to confiscate and to destroy all weights and measures which do not conform to the standards prescribed by law. See BUSINESS, GOVERNMENT RESTRICTION OF; WEIGHTS AND MEASURES.

W. B. M.

SEALS, PUBLIC. Every government has a "great seal" for the authentication of its acts, records and other important instruments. The great seal of the United States was adopted in 1782 and is in the custody of the Department of State. It is affixed to the more important acts, commissions, and letters of ceremony issued by the President. There is also a seal for each of the executive departments. Each of the states likewise has its great seal and many of its officers, particularly those whose duties are of a notarial character, are required to affix seals to certain documents and legal instruments. In England there are three seals which are used for the authentication of documents issued in the name of the sovereign; the great seal, the privy seal and the signet. The effect of affixing the seal to an act is to prove and authenticate its official character. The courts of one country take judicial notice of the great seal of other governments; likewise, those of one state of the American Union take notice of the seals of other states.

J. W. G.

SEAMEN, STATUS OF. It is necessary that the rights and duties of seamen be most carefully defined by legislation. Whether afloat at sea, or on shore on leave of absence, or at home, the sailor is in peculiar need of protection, and is also subject to exceptional temptations to disregard his obligations. For long periods he is out of the reach of the ordinary machinery of law; he is subject to duress to secure specific performance of a labor contract; and the authority of the ship's master is absolute in cases of emergency.

Pilots and mariners are exempted from military duty. Foreign seamen on American ships may become American citizens three years after a declaration of intention.

United States shipping commissioners (see NAVIGATION, REGULATION OF) are stationed at every important American port to as-

sist seamen in securing employment, and to aid masters in obtaining crews. There must be a written agreement between the master and each seamen employed, and the points to be covered by the contract are enumerated in the statutes.

Every vessel must be kept adequately manned. Every master must keep a complete and accurate crew list. A copy of this list must be filed with the collector of the port upon entering an American port. When a vessel sails for a foreign port the master must take with him a crew list certified as correct by the collector of the customs. The conditions under which men may be discharged in a foreign country are set forth.

The law is especially specific as regards the payment of seamen's wages, and the circumstances under which wages may be held back by the master. Neither wages nor clothing of seamen may be attached by creditors. The law does not allow the seamen to contract with the master to pay the wages to any third party except "grandparents, parents, wife, sister or children."

Offenses and punishments of seamen are carefully defined. The offenses enumerated are

desertion, refusal or neglect to join the vessel, quitting a vessel upon its arrival at a port before it has been placed in security, wilful disobedience to a lawful command of an officer, assault upon a master or mate, damaging the vessel, and smuggling. There is a specified penalty for each offense; but "flogging and all other forms of corporal punishment" are prohibited.

The law contains a "scale of provisions to be allowed and served to crew during the voyage." Sick and disabled seamen receive free care in the United States Marine Hospital.

The requirements of the navigation laws of the United States, as well as the higher wages paid in this country, make the operation of vessels more expensive under the American flag than under a foreign ensign.

See LABOR, FREEDOM OF; SHIPPING, REGULATION OF.

References: Commissioner of Navigation, *Navigation Laws of the United States* (published at intervals of three or four years).

EMORY R. JOHNSON.

SEARCHES AND SEIZURES. See WAR-RANTS.

SECESSION CONTROVERSY

Antecedents of Secession.—The subject of secession of one or more states from the American Union was a matter of discussion at various times from the adoption of the Constitution (1789) to the time when the southern states, acting upon a supposed and asserted right, sought to retire from the Union and to set up a separate confederacy (*see* CONFEDERATE STATES). There is no space here to mention the various threats of secession. Many instances are cited and the most is made of them in Stephens' *War between the States*, the ablest defense of secession. At the time of the nullification (*see*) trouble in South Carolina distinct principles of state sovereignty were set forth and with them the right of secession, and from that time the possibility of an attempt to break up the Union was never long absent from men's minds. The danger became more real and acute after the annexation of Texas (1845), and especially when the question concerning slavery in the territories arose and became a practical question. Lincoln's election (1860) by a party whose cardinal principle was opposition to slavery extension into the territories was the signal for action (*see* KANSAS-NEBRASKA STRUGGLE; REPUBLICAN PARTY; SLAVERY CONTROVERSY).

We may well notice that disruption of various national organizations had already taken place. As early as 1845 the southern Baptist convention was formed to take charge of the

mission work of the southern Baptist churches. In the same year the Methodist Episcopal Church South was established as a separate organization. The Presbyterians were in part disorganized as early as in 1858, though not actually broken in two. The cause in each instance was difference of opinion on the slavery question. The cleavage in the ranks of the Democratic party in 1860 was evidence that the formal union of states could not last long. The party was a national institution that had a strong hold on the loyalty and affection of its members; possibly it is fair to say that it had a stronger hold and was more of a vital reality than the Union itself. And indeed it did not wholly go to pieces, but after the war stood once again in national proportions.

A convention in South Carolina on December 20, 1860, unanimously adopted a resolution declaring that "the union now subsisting between South Carolina and other states under the name of 'The United States of America' is hereby dissolved." Similar action was soon taken by the more southern slave states early in 1861. By the early summer eleven slave states had joined the southern confederacy (*see* CONFEDERATE STATES).

Justification of Secession.—The South justified secession on several grounds. (1) Some of the northern states had passed personal liberty laws intended to prevent the execution

of the fugitive slave law. (2) Fugitive slaves had in some instances been released by force, and the southern people knew that a large element at the north opposed the law; they believed therefore that the North was guilty of violating the distinct constitutional rights of the South. (3) The southern leaders claimed that they had a right to go into the territories with their slaves and there hold their slaves as property (*see DRED SCOTT CASE*), and that the success of the Republican party was a distinct denial of this constitutional right. (4) The John Brown raid was looked upon as evidence of the real desires and purposes of northern anti-slavery men.

Jefferson Davis, in his message to the Confederate Congress (April 29, 1861), summed up the bases of secession as a right and gave the reasons for the step. A condensed statement of his position may be given as follows:

First. The Constitution was a compact between independent states; but there had gradually arisen at the north a political school which had persistently claimed that the Government was a National Government. Second. "The people of the southern states. . . . early perceived a tendency in the northern States to render the common government subservient to their own purposes by imposing burdens on commerce as a protection to their manufacturing and shipping interests." Third, "In addition to the long-continued and deep-seated resentment felt by the southern States at the persistent abuse of the powers they had delegated to the Congress," there had existed for nearly half a century "another subject of discord." At the formation of the Constitution slavery existed in all but one of the thirteen states, but for economic reasons it gradually disappeared at the North: "as soon, however, as the northern States that prohibited African slavery within their limits had reached a number sufficient to give their representation a controlling voice in the Congress, a persistent and organized system of hostile measures against the rights of the owners of slaves in the southern States was inaugurated and gradually extended. . . . Fanatical organizations . . . were assiduously engaged in exciting amongst the slaves a spirit of discontent and revolt. . . . Men were taught that it was a merit to elude, disobey, and violently oppose the execution of the laws enacted to secure the performance of the promise contained in the constitutional compact." Men were sent to Congress "whose chief title to distinction consisted in the display of a spirit of ultra fanaticism, and whose business was not 'to promote the general welfare or insure domestic tranquillity'; but 'to awaken the bitterest hatred against citizens of sister states by violent denunciation of their institutions.'" . . . "Finally a great party was organized . . . with the avowed object of using its power for the total exclusion of the slave States from all participation in the benefits of the public domain acquired by all the States in common. . . . of surrounding them entirely by States in which slavery should be prohibited; of thus rendering the property in slaves so insecure as to be comparatively worthless, and thereby annihilating in effect property worth thousands of millions of dollars."

This is probably the strongest justification of secession that can be presented in a few words. It is not entirely satisfactory to the student of history. Even if one should accept the state sovereignty doctrine, he could not accept the statement that the North had plotted to distort the Constitution against the persistent objection of the South. The North in fact might more justly have asserted that from the beginning the Government had been a large part of the time in the hands of southern men

and had been solicitous for southern interests. The charges against the northern states that they had passed personal liberty laws and impeded the enforcement of the Fugitive Slave Law were in large measure just, and it was also true that the Republican party was determined that slavery should be confined within the limits of the states where it existed. If these facts were enough to justify secession, then secession was justified. But the Republicans had no intention of interfering with slavery within the states, and it is difficult to see what the southern states could hope to get, when outside of the Union, which they could not obtain as members of it. Slavery would certainly not be safer after secession than before. The truth is that by 1860 the resentment at the South, because of northern objection to slavery on moral grounds, had reached a point where cool reason was almost impossible; property worth billions of dollars demanded security and property owners seemed to think that they could achieve security by independence. Extremists in the South had come to the point of defending slavery as a positive good and as a great moral institution, the best institution on which to rear a high and fine civilization; the southern people insisted now on a separate national existence uncontaminated by association with men who were continually casting reflections on their chosen form of civilization. Even those who did not assert that slavery was in itself good, contended that they were under obligations to hold and protect the slaves in their charge.

Doctrine of Secession.—The doctrine of secession, the doctrine of the legal right to secede, was commonly based on the principle of unalloyed and undiminished state sovereignty (*see*). Each state had as good a right to withdraw from the Union as had England or France to refuse to be bound by a treaty or convention. It should be noticed that in any such argument a declaration that other states had broken the compact is quite beside the mark; a sovereign state may look for justification, it does not need to seek legal grounds for action; a sovereign state is entitled to act at any time upon any ground that it deems sufficient. There always has been, however, more or less confusion of thinking on this matter.

Besides this doctrine of unimpaired state sovereignty as the basis of secession there appear to have been two other motions. First, there was the theory that the Union was a compact by which certain portions of sovereignty were surrendered and others retained, and that, when the reserved powers were encroached upon or the compact broken, a member complaining of the breach might retire from the Union. This was probably the basis of declarations of the right to secede, or of threats of secession, in the earlier days and was sometimes used at a later time: it rests on the idea of divided sovereignty. Second, there was

the general principle that the government of the Union was a government but that men always have the sacred right to better their condition, if they can, by rising up against government and overthrowing it. This "right" to resist oppression was in all probability the only "right" that men had in mind on some occasions when secession was threatened or discussed. (Notice for example Lincoln's speech in 1848 cited in Stephens' *War between the States*, I, 520.)

Coercion.—When the states issued their ordinances of secession (1860–1861) there was much discussion on the question of the right to coerce a state. Buchanan in his message of early December (1860) had declared that a state had no constitutional right to secede; but he could find no constitutional right to coerce a state and therefore apparently no right to prevent secession. Those that favored secession made much of the fact that the Federal Convention did not provide for coercion of states but, on the contrary, decided not to include the power in the Constitution. As a matter of fact this power was not included, because a government over people was established and to it was given the right to enforce laws on persons: a provision for coercion of states would have been appropriate in a union of sovereignties, where war upon the states would have been the suitable means of enforcing obligations; it was inappropriate in a system which provided for a government immediately over men who were subject directly to the commands of the government. Anything done by a state government, contrary to the essential duties of the state as a member of the Union is illegal: all officers that carry out unconstitutional legislation are not properly state officers at all; people cannot legally perform illegal acts.

The Republican leaders, such men as Lincoln and Lyman Trumbull, had no great difficulty in escaping the fallacies that were cunningly woven about the word "coercion." Lincoln saw, as had Jackson, that it was his duty to enforce the law. Lyman Trumbull, Dec. 29, 1860, said: (*Cong. Globe*, 36 Cong., 2 Sess., Pt. I, 156)

If there is anybody in this Senate, or in this country, who ever talked of the United States declaring war against one of its States, or of coercing one of its States, or ever entertained such a notion, I know not who it is. I have never seen him. This phrase, "coerce a State," is a phrase calculated to mislead the public mind. . . . Nobody proposes to declare war against a State. That would admit at once that the State was out of the Union—a foreign Government. Of course, we cannot declare war against a State. Nobody proposes to coerce a State, or to convict a State of treason. You cannot arraign a State for trial; you cannot convict it or punish it; but you can punish individuals.

See DEMOCRATIC PARTY; NULLIFICATION CONTROVERSY; REPUBLICAN PARTY; STATE SOVEREIGNTY; VIRGINIA AND KENTUCKY RESOLUTIONS.

References: A. H. Stephens, *Constitutional View of the Late War between the States* (1868), I; J. Davis, *Rise and Fall of the Confederate Government* (1881), I, 1–258; J. F. Rhodes, *Hist. of the U. S.* (1893–1906), II, III; E. McPherson, *Pol. Hist. of the Rebellion* (4th ed., 1882), 1–90; W. E. Dodd, *Jefferson Davis* (1907), 174–214.

A. C. McLAUGHLIN.

SECOND CLASS MAIL MATTER. Of all measures of reform now under consideration for the improvement of the postal service, that affecting the rates, conditions of service and transportation of second class matter is believed to be the most important. This is due to the fact that this class constitutes the great bulk of mail matter handled; that the expense entailed in handling it far exceeds the revenue it produces; that the payments made to the railroads for transporting it are believed by many to be excessive; and that the loss entailed in doing this part of the business of the postal service stands in the way of making extensions of the service and reduction in other rates that are highly desirable. The feeling prevails widely that the handling of this class of mail matter at a great loss to the government represents an unbusinesslike policy; that the virtual subsidy of the press in this way cannot be justified; and that a thoroughgoing reform should be immediately effected.

The questions here involved have been repeatedly investigated, but no practical results of importance have followed. By Act of March 4, 1911, the President was authorized to appoint three competent and impartial persons to:

examine the reports of the Postoffice Department and any of its officers, agents or employees, and the existing evidence in respect to the cost to the Government of the transportation and handling of all classes of second-class mail matter which may be submitted to them, and such evidence as may be presented to them by persons having an interest in the rates to be fixed for second-class mail matter; to make a finding of what is the cost of transporting and handling different classes of such second-class mail matter to the Government, and what in their judgment should be the rate for the different classes of second-class postal matter in order to meet and reimburse the Government for the expense to which it is put in the transportation and handling of such matter.

An appropriation of \$50,000 to meet the expenses of this investigation was made. The report of this Commission, of which Mr. Justice Hughes of the Supreme Court is chairman, should furnish material that will lead to an adjustment in part at least of this vexed question.

See POSTAL SYSTEM OF THE UNITED STATES.

References: U. S. Postmaster General, *Annual Reports*; *Official Postal Guide* (annual); Commission on Second Class Mail Matter, "Report" in *House Doc.*, 62 Cong., 2 Sess., No. 559 (1912); Postal Commission, "Report" in *House Doc.*, 59 Cong., 2 Sess., No. 608 (1907).

W. F. WILLOUGHBY.

SECRET SERVICE. During the Civil War Col. Baker's corps of secret service agents was utilized in a limited way in the detection and prosecution of counterfeiters. At the close of hostilities a portion of the Baker force was transferred to the Treasury Department, and under the direction of its famous leader undertook the suppression of counterfeiting. Out of this grew the secret service as it exists today. Each year since 1865, when the first formal appropriation of \$100,000 was made, there has been included in the sundry civil appropriation act a sum to be used by the Secretary of the Treasury in the protection of the currency, and the secret service is supported by this fund. Notwithstanding slight changes in the phraseology of the act, in the main its activities have been confined to the suppression of counterfeiting. During the Spanish-American War an auxiliary force operating in conjunction with the service disclosed the activities of the confidential agents of Spain and secured the expulsion from Canada of members of the Spanish legation who were maintaining a spy service. Later its investigation of the great land frauds resulted in the recovery of vast tracts of the public domain and the punishment of scores of offenders. After the assassination of President McKinley it was charged with the protection of the President, and this is now its gravest responsibility. Its organization and methods are simple and efficient. There are thirty districts in the United States, each with an operative in charge and as many assistants as may be necessary, all under the immediate direction of the chief of the service, whose office is in the Treasury Department at Washington. The mobility of the force is such that its strength at a given point may be increased instantly to meet any emergency that may arise. The arrests for violations of the counterfeiting statutes number approximately 500 annually. See **POLICE IN AMERICAN CITIES**; **TREASURY DEPARTMENT**. Reference: L. C. Baker, *Hist. of the U. S. Secret Service* (1868). A. PIATT ANDREW.

SECRET SESSION. Secret sessions may be held by any legislative body, but are rare except in the Senate of the United States. The national House of Representatives still provides by rule for secret sessions on executive or other confidential business, but the rule has been in abeyance since 1830. The Senate provides by rule that all communications from the President and other confidential business shall be in secret session, unless the Senate provides for an open executive session. In secret session all outsiders are excluded and all Senators and officers are sworn to secrecy. From 1789 to 1799 all sessions of the Senate were secret. See **SENATE**; **SESSION OF LEGISLATIVE BODIES**. References: *Senate Rules* (1909), XXXVI-XXXVIII; D. B. Eaton, *Secret Sessions of the Senate* (1886). R. L. A.

SECRETARIES, HEADS OF DEPARTMENTS. The government began, in 1789, with three executive departments, State, War, and Treasury; at the head of each was a secretary. For administrative purposes, there were also a postmaster general and an attorney general. The Navy Department was created in 1798, the Interior Department in 1849, the Department of Justice in 1870, the Post Office Department in 1872, the Department of Agriculture in 1889, and the Department of Commerce and Labor in 1902. This last was divided in 1913 to make two separate departments, those of Commerce and of Labor. The Postmaster General first became a member of the President's Cabinet during Jackson's administration. The Attorney General was one of the President's counselors when the first Cabinet was evolved under Washington; the secretaries have been members of the Cabinet from the creation of their respective departments. The annual salary of the head of a department is \$12,000. See **CABINET OF THE PRESIDENT**; **EXECUTIVE DEPARTMENT**; **SALARIES**; and **DEPARTMENTS** by name. References: H. B. Learned, *The President's Cabinet* (1911); *Sen. Rep.*, 57 Cong., No. 82 (1902); *U. S. Statutes* creating the departments. C. M.

SECRETARIES OF DEPARTMENTS. See **DEPARTMENTS** by name.

SECRETARY OF LEGATION. Till 1905 it was customary for the President to fill the office of secretary of American embassies and legations without necessary reference to fitness of the appointee. Since that time by virtue of several executive orders the system of choice from candidates who have been subjected to examination, or who have had previous experience, has been adopted. This step is in the direction of giving the service greater stability. The first or second secretary of an embassy or legation becomes in the absence of his chief the *chargé d'affaires ad interim* and should therefore not merely have control of the clerical duties of the embassy, but should also have a full knowledge of the policy and plans of his chief and of the means by which these can be realized. The secretary's acquaintance with official and other prominent men should therefore be large and he should be otherwise prepared as fully as possible to take up the work of the head of the mission in case of necessity. The second, third and other secretaries are in general not allowed, without special authorization, to undertake the duties, which fall to the secretary. The duties of the secretaries of the lower grades are more strictly clerical. See **DIPLOMATIC SERVICE OF THE UNITED STATES**; **PROMOTIONS**. Reference: J. W. Foster, *Practice of Diplomacy* (1906), 10, 206. G. G. W.

SECRETARY OF STATE IN STATES. In every state of the Union there is an official who

bears this title, and whose functions commonly are to keep the authentic copies of public acts; to act as the record officer of the state, and by his seal and signature to authenticate statutes and other documents. He is often a member of state commissions *ex officio*. In all cases it is an elective office, the term varying from one to four years. In some commonwealths, as in Massachusetts, he is likely to be reelected for several terms. See CIVIL SERVICE, STATE; STATE DEPARTMENTS, HEADS OF; STATE EXECUTIVE; STATE GOVERNMENTS, CHARACTERISTICS OF. Reference: C. A. Beard, *Am. Government and Politics* (1910), 499. A. B. H.

SECRETARY TO THE PRESIDENT. When Washington became President, Tobias Lear was made his private secretary; and probably every President since has had near him a confidential clerk or friend to write letters and make inquiries for his chief. Meriwether Lewis, private secretary for Jefferson, was designated to lead, with William Clark, an expedition to Oregon in 1803.

In 1861 provision was made by Congress for the salary of a messenger, steward and private secretary. The first incumbents of the office to attract much popular attention were John Hay and John G. Nicolay, both private secretaries for President Lincoln; and their place in the public mind is largely due to the elaborate biography of Lincoln which they later published. President Cleveland's private secretary in his first administration, 1885-89, was Daniel

Lamont, whose services were so significant that when Cleveland returned to office in 1893 he made Lamont Secretary of War. A similar distinction came to George B. Cortelyou, private secretary for President McKinley, who held three Cabinet offices; William Loeb, Roosevelt's secretary, was made collector of the port of New York upon the accession of President Taft in 1909.

In 1897 by statute, the title of this office was made Secretary to the President, and the salary was fixed at \$6,000. In 1911 the salary was raised temporarily to \$7,500, and it has since been maintained at this figure by annual appropriations. The President's secretary is now recognized as a man of much significance in every administration. He stands between the President and the public and reporters. As an administrative official, he is head of the employees in the office at the White House and assigns their work. On the public side, he is one of the antennae of the President, in realizing public opinion; he is a point of connection with the leaders of the President's party; he drafts important documents, and is, on many questions relating to the unwritten powers of the President, a sort of unofficial Vice-President.

See INFLUENCE IN GOVERNMENT; PRESIDENT, AUTHORITY AND INFLUENCE OF.

References: J. G. Nicolay and J. Hay, *Abraham Lincoln* (1910); Gideon Welles, *Diary* (1911); Benjamin Harrison, *This Country of Ours* (1897). A. B. H.

SECTIONALISM IN THE UNITED STATES

Sectional Divergence.—The United States, exclusive of its non-contiguous dependencies, occupies a territory comparable to Europe in size, resources, and variety of geographic provinces. The history of the settlement of this territory is the history of the occupation of successive geographic sections, each capable of constituting the physical basis of a nation. It is natural, therefore, that in these various sections particular interests and social types have arisen. National statesmen have achieved leadership by voicing the aspirations and convictions of their own section, and effecting combinations of sections in a national policy by such compromises and accommodations as proved necessary.

Complication through Federal Government.—In spite of the nationalizing influence of party ties, sectional groupings have been common in votes in Congress and presidential elections, as well as in the party organizations themselves. In economic and social activity they are equally evident. The peculiar constitutional organization, under the federal form of states within a nation, has somewhat obscured

the sectional phenomena. Most historians, whether engaged upon the history of states, or of the nation, have given too little consideration to the play of sectional forces.

If the actual influence and processes in American life are considered, rather than the formal organs of their expression, sectionalism is found to be one of the most serious of the fundamental facts in American history. Even the much discussed state sovereignty (*see*) was primarily the constitutional shield raised in protection of threatened sectional interests. In the actual operations of government is visible a federal relationship of sections and nation as well as of states and nation. The national spirit and its expression in literature is the composite result of the psychology and literature of the different sections.

The Sections.—Popularly considered, sections are groups of states. The census office maps the nation into such groups, naming them North Atlantic, South Atlantic, North Central, South Central, and Western. In popular speech the nation is divided into: (1) New England (*see*); (2) the Middle States (*see*);

the two together are called the Northeast, or simply the East, and correspond to the North Atlantic group of the Census; (3) the South (*see*): (4) the old Northwest, between the Mississippi, the Ohio and the Great Lakes; (5) the Middle West (*see*), commonly meaning that part of the north central division which lies west of the Mississippi, but sometimes used to designate the whole division west of Pennsylvania; (6) the Pacific Northwest, or new Northwest, or simply Northwest; (6) the Pacific Coast; (7) lower South, roughly South Central, or the Gulf States; (8) the Southwest. Other names are in common use, Ohio Valley, Inland Empire, Rocky Mountain States, Cotton States, Corn Belt, Arid America, etc.

The most obvious example of sectionalism is the struggle between the North and South over slavery (*see* SLAVERY CONTROVERSY) which culminated in the Civil War. Sectionalism still exists as to the negro question, creating a mutual distrust between these sections. North and South are ordinarily set apart by Mason and Dixon's line—the boundary between Maryland and Pennsylvania—continued by the Ohio River and the Missouri Compromise line (*see*); but within the South the Border States are distinguished from Georgia and the Lower South or Cotton States, and the Gulf States. In a narrow sense, the Border States include only Delaware, Maryland, West Virginia, Kentucky, and Missouri. To the latter group might be added the southern counties of Ohio, Indiana, and Illinois, which were largely settled from the South and influenced by Border State sentiment. But there are other important examples of sectionalism, which frequently cut across state boundaries. The North, for example, is not only made up of several sections, but each of these separate groups of states is made up of distinct subdivisions, often interstate in their area. Every state shows within itself certain groups of towns or counties which habitually, sometimes for several generations, have acted in political, economic and social life in a manner different from the other areas of the same state. The attitude of the section considered as a group of states is, therefore, the resultant of the interplay of these sectional subdivisions. An example of state subdivision is exhibited in the counties known as the Western Reserve in northern Ohio. Another is the historic opposition of the interior counties of the south Atlantic states to the controlling tidewater counties (*see* WEST AS A FACTOR IN AMERICAN POLITICS). In Virginia this culminated in the erection of the separate state of West Virginia. From the middle of the eighteenth century to about 1830, the Piedmont, or upland, portion of these southern states constituted a distinct section in normal opposition to the seaboard area.

Causes of Sections.—Physical geography and the stocks from which the settlers sprang are

the two most important factors in creating sectional characteristics. The former has had fundamental effects upon the economic life, and even upon the social organization and psychological traits of the people (*see* AMERICAN GOVERNMENT AND GEOGRAPHY). The influence of the social and political habits and ideals of the original settlers, however, has also been important and persistent. Usually the two factors have been combined by the natural selection by the settlers of an environment suited to their habits and traits.

West and East.—One phase of sectionalism especially characteristic of the United States has been the opposition of East and West. Owing to the movement of the frontier (*see* FRONTIER IN AMERICAN DEVELOPMENT) the settled area has been continually advancing to the former sparsely occupied western region. Although American democracy has been compelled to deal with the problems of a single nation, it has combined at each period of its life a primitive and a highly developed society, with contrasting interests. Successive stages of density of settlement have been exhibited decade after decade in successive areas from east to west.

Each zone of economic and social development has tended to express its particular interests, and in this fact lies the explanation of a movable western sectionalism which has continually recurred in American politics, as in the era of Bacon's Rebellion (*see*): the Regulator movement (*see*), culminating in the Battle of the Alamance in 1771; the Separatist movement and the demand for self-government exhibited by the trans-Alleghany states, the "men of the western world" as they called themselves, in the Revolutionary period; the western demands for annexation of new territory in successive periods from that era onward; the support of the West for expansion of the currency, freer disposal of the public lands, internal improvements, a home market under a protective tariff in the earlier period, and afterwards for tariff reduction.

The moving West, with its free lands, its lack of social stratification, its individualism, its freedom of opportunity, has been the most persistent force in behalf of democracy, exemplified by the Populists (*see*) and by the wing of the Democratic party led by William Jennings Bryan (*see*). The Insurgent movement in the Republican party leading to the Progressive (*see*) movement, was influenced by the same sectional tendency, although the economic transformations of our time are drawing the section away from individualism to national control under the principles of collectivism.

Areas which at one time were the West have become in succeeding periods a part of the East. As the westward progress of denser settlement, more highly organized agriculture, manufacturing, city life, and accumulated cap-

ital goes on, some of the basis of this sectional difference disappears. Nevertheless transmitted habits and ideals still remain as powerful sectional influences, so that this western sectionalism has, up to the present, survived in spite of the economic transformations which tend to its extinction.

Colonial Sections.—Turning to the manifestations of fixed geographic sectionalism, we find them exhibited from early times, too various and often too subtle for presentation in a brief résumé. But the main tendencies may be illustrated by some examples.

In the colonial era the different circumstances of settlement, together with the various geographical conditions, led to the recognition of three coastal sections, New England, the Middle Colonies, and the South, each with a considerable community of institutions and ideals as well as economic interests. These facts led to occasional proposals of sectional colonial unions, as well as to partial recognition in the jurisdiction of colonial governors over more than one colony. The sections were also bases of military organization and Indian administration.

Toward the close of the colonial period the West had also begun to appear as a separate section. In the Revolutionary era and the period of the formation of the Federal Constitution sectional jealousies appear clearly in the votes recorded in the journals of the Continental Congress and the constitutional convention. They were exhibited in both domestic and foreign policy, although modified in their influence by the opposition between large and small states.

New England's sectional particularism was based in part upon the physical conditions which subordinated agricultural interests to commercial and navigating interests; and after the embargo (*see*) and the War of 1812, to manufacturing interests based upon her water powers and the traits of the people. In part, also, this sectionalism was the manifestation of the separate political institutions (such as the town), manners, customs, and ideals which were characteristic of the domination of Puritanism. An early recognition of these sectional interests was exhibited by the New England Confederacy of 1643 (*see*).

The Colonial South found its special interests in staple production for export by means of slave labor. The climate, soil and river systems of the South promoted this development, and the absence of cities (except Charleston) gave freer play to the agricultural interest.

The Middle Colonies had characteristics both of New England and the South, the East and the West. The region was in some respects a zone of transition, a pivotal and mediating group. But its variety of industries, and race stocks (including particularly Germans, Dutch, and Scotch Irish), multiplicity of religious

sects, mixed political institutions and customs placed it in contrast with Puritan New England and the slave-holding South so that it constituted a section rather than a mere periphery of the other two coastal sections. Lacking homogeneity and self-consciousness, however, it never exhibited the same sectional activity as did its neighbors.

Commerce against Agriculture.—In the ratifying conventions in the various states which adopted the Federal Constitution the votes, when mapped, reveal the success of the compromises of the framers in avoiding the sectional opposition of New England and the South. They show, also, a different sectionalism in the support of the Constitution by the inhabitants of the areas of commerce and intercourse, chiefly along the seaboard, and in the important river courses and mountain valleys, against the opposition of those of the rural areas which suffered from debt and desired relief in paper money legislation forbidden by the Constitution (Art. I, Sec. x, ¶ 1). They also exhibited the opposition by the country population to strong government in that era, and the dependence of the commercial sections upon more effective regulation of interstate commerce, taxation and currency.

Jeffersonian Democracy placed its main reliance upon the country districts which had opposed the Constitution, but was recruited also from the democracy of the larger towns. Commercial New England became alarmed as the union of southern and western agricultural interests increased their prospective power in the nation; while the purchase of Louisiana (*see*) threatened to place New England in a position of helpless minority in the Union by the addition of the raw material for new agricultural states. Her resentment exhibited over this annexation was increased by the embargo legislation and the War of 1812, by which New England's commerce was sacrificed to the policy of the West and South. The result was a series of proposals by Federalist leaders in New England for combining that section with parts of the Middle States or of the old thirteen Atlantic States in a new union, or at least in a coercive opposition to the government policy. The culmination of this opposition in the Hartford Convention (*see*), with its proposals for segregation of taxes for sectional defense, marked also the downfall of New England federalism as an effective sectional force.

The national spirit received new strength by the outcome of the war; and sectionalism found its expression in the following period, in the grouping of congressional votes on such topics as tariff, internal improvement, the public lands and currency and banking; until, by the development of cotton cultivation, with its stronghold in the cotton kingdom of the lower South, slavery became the dominant sectionalizing influence.

Slavery.—The influence of slavery was, however, an indirect factor in much of this legislation, particularly after the period of the Missouri Compromise (*see*) when North and South were clearly seen as opposing sections. The attempted nullification of the tariff of 1832 by South Carolina was only resolved upon by that state after vain attempts to bring the slave-holding section together in support of a combined policy. Many who refused to go with Calhoun in favor of state nullification were ready to support sectional resistance under the right of revolution. But at that time the lower South was rather the southern West, or lower Mississippi Valley, not yet dominated by south Atlantic slave interests, but rather finding its sectional connections under the leadership of Tennessee, in the pioneer West.

Early Mississippi Valley.—The sectional influence of the Mississippi Valley was marked from about 1830 to about 1850. In 1790 the Mississippi Valley had a population of about one-fortieth of that of the United States as a whole; in 1840 it had over one-third. Its political power grew with its numerical increase and as new states were added with equal power in the Senate to the old.

Between the beginning of the Revolution and the middle of the nineteenth century, the pioneers of the southern Piedmont region, together with the similar people of western Pennsylvania, had crossed the Alleghanies and occupied the Tennessee and Ohio valleys, spread up the lower Missouri and descended into the Gulf plains. This stock, the upland southerners, became in the era of their great representative, Andrew Jackson, the most significant influence in the political history of the time. They were, for the most part, a backwoods democracy, responsive to emotional leadership. As they came to produce a surplus for export, they were in need of free use of the Mississippi River and the Gulf of Mexico, the piercing of the Alleghany barriers by roads and canals, the development of a home market, cheap public lands, and an abundant currency to satisfy their optimistic economic interests and to enable them to pay the indebtedness incurred in opening the country. Their growing power in the Union led the Northeast and the old South to bid for their support by concessions to special western interests. Much of the policy of such leaders as Calhoun, Clay, John Quincy Adams, Van Buren, Polk and Benton is explained by the interplay of sectional policy.

Political Rivalries in the Section.—The West also was the stronghold of the rural democracy which supported Jackson, and from which the candidacy of W. H. Harrison, although he was a Whig, won much support; both were regarded as exponents of democratic simplicity in government.

The division of the Mississippi Valley, however, was also becoming apparent in these

years. The Ohio Valley with its more numerous and important commercial centers, and its business interests generally, tended to follow Henry Clay in a combination with New England upon such subjects as the tariff. Already a northern political zone was forming under the Whig party. It found support among the slave holding planters of the black belt, or region of denser negro population which extended across central Georgia and southern Alabama, and occupied the alluvial area of Mississippi and Tennessee, and the good soils of central and eastern Tennessee. Economic and social considerations attracted these planters to the Whig party, for their cotton planting, which was carried on by advances of credit from banks, demanded that they oppose the democratic attacks upon credit currency. Their society also contrasted with the "poor white" democracy which occupied the less fertile soils of the northern parts of the Gulf Basin and the sandy lands of the southern portion.

Subdivision of the West.—The stream of population from New York and New England, Germany and Scandinavia in the generation prior to the Civil War entered the area of the prairies and the Great Lakes of the old Northwest, tended to espouse northern political principles, and, as the slavery question arose to controlling importance, this connection became more intimate.

Thus, in 1850, there stretched across the Mississippi Valley four fairly well marked sections: (1) The area of the New York-New England-German settlers, which increasingly broadened relations in business and ideals between the coast and the Northeast. The railroad development of the era promoted this connection. (2) The area of the southern uplanders, embracing both sides of the Ohio Valley together with Missouri, which constituted a border-land between North and South. It was a region of compromise on the slavery question, although slavery elsewhere existed only south of the Ohio. Clay's compromises and Crittenden's compromise came naturally from this region; Douglas found in it much of his support; and President Lincoln adapted his policy to the need of conciliating its prejudices (*see* BORDER STATES). To the east it had close relations with West Virginia and Maryland. (3) The zone of the northern and less fertile areas of the gulf plains, or Lower South, which had close relations to the previously described section, in that it was an area of small slaveholders and non-slaveholders, but which was more southern in its sympathies. (4) The Black Belt, which was the stronghold of the southern Whigs, and later of the Constitutional Union party, and was the home of the planting aristocracy.

Mountain Region.—Each of these zones had areas of opposition in its midst, and there was, in particular, a survival of the older sectional entity of the Alleghany Mountains area,

thrust down like a peninsula from Pennsylvania into the South. This section including counties of the adjoining states to the east and west of the mountains, was the stronghold of the Unionists of whom Andrew Johnson was an exponent, and was afterwards an outlying area of the Republican party, tending, as its industries, based on coal, iron, and water power, were developed after the war, to affiliation with corresponding parts of the North.

South and West.—The cotton planting states, from the middle of the century showed marked sectional tendencies. A series of commercial conventions of these states, continuing almost annually to the Civil War, gave opportunity for exchange of plans for remedying sectional grievances, and developing sectional self-consciousness. One of the most celebrated of these sectional conventions was the Nashville Convention (*see*) at the time of the crisis which resulted in the Compromise of 1850. But a counter sectional consciousness was already appearing in the Northwest which is illustrated by the Chicago River and Harbor Convention which met in 1847, and had as its rival the Memphis convention of 1845, and later conventions on the lower Mississippi. Even in the church organizations sectional divisions had broken down national unity, as Calhoun made clear in his last public utterance in the debate of 1850.

North Against South.—The sectional aspects of the slavery struggle, the Civil War, and reconstruction are interwoven with general American history. The division into northern, border, and southern states were illustrated at every stage of the period. In general, the important fact to be borne in mind is that the contest was not a solid impact of a united North against a united South, but that each of these main sections had subdivisions, the attitude of which affected the policy and actions of the larger sections.

Influence on Post-Bellum Politics.—Since the Civil War, sections have appeared in the discussions and votes in such issues as the Granger movement (*see*), and the greenback movement (*see*), both of which showed opposition between the northeastern creditor sections, and the western and southern debtor sections. In the Senate votes on monetary issues the old northeastern Federalist area against a generally opposing South and West occasionally reappears in political mapping; while the Granger areas were chiefly the wheat raising states of the Middle West. In general the regions of accumulated capital have acted together. The Populist movement (*see*) found its stronghold in the prairie and silver mining states of the West; and the Democratic party under Bryan from 1896 fell under the leadership of the same section, with its sympathizers among eastern laborers.

In these issues the old Northwest became the new middle region holding the balance of power

between the capitalistic northeast and the populist west. The movements from 1910 to 1912 for popular power in politics, which expressed themselves in demands for primary election, initiative (*see*), referendum (*see*), recall (*see*), direct election of United States Senators (*see* SEVENTEENTH AMENDMENT), income tax (*see* SIXTEENTH AMENDMENT), lower tariff, etc., culminating in the division of the Republican party and the organization of the Progressives (*see*), were most strongly evident west of the Alleghany mountains, and more gradually in the Northeast, generally speaking. In the campaign for the Republican nomination for the presidency in 1912, a sectional tendency was obvious in the alliances between the Pacific Coast and the Middle West (north central states) on the one hand and the Northeast and the Rocky Mountain states on the other, a possible indication of the connection between the vested interests of the Northeast and the regions of its investments of mining capital.

Commercial Influences.—The mapping of votes in presidential elections since the Civil War shows the most obvious sectionalism in party politics to be still that between North and South, arising over southern apprehension on the "negro question." But this sectionalism should not conceal the fact that the North is still composed of conflicting economic sections, whose differences at times, are shown to be fundamental, and that into the South is being projected (especially along the line of the Appalachians) the northern industrial type and interests. This process is already producing a rearrangement of sectionalism in the South. The relation of the Pacific Coast to Asia and the problems of Asiatic immigration have from time to time exhibited strong sectional tendencies in that region.

Official Sections.—In economic and social affairs sectionalism has found constant recognition on the part of the different departments of the Federal Government which map the United States into sections according to the particular interests of the department concerned. The Geological Survey, Agricultural Department, Forestry Service, Interstate Commerce Commission, etc., as well as the Census Bureau, all divide the United States into more or less varying sections in the maps classifying their work. In the business world and in social activity, the fact of sectionalism in the United States finds expression in the organization of the territory, in sectional societies and conventions. Pronounced sectional consciousness is exhibited by such areas as the "Inland Empire" (*see*) composed of interior fragments of the far Northwest, west of the Rocky Mountains, and roughly corresponding to the Columbia Plateau. Such sections, embracing fragments of various states, often have more homogeneity and community of interest than exists within the state itself. They constitute

possible bases for future new divisions of the United States in case the state should continue to lose vitality as a political unit.

See AMERICAN GOVERNMENT AND GEOGRAPHY; BOUNDARIES OF THE UNITED STATES, INTERIOR; FAR WEST; FRONTIER IN AMERICAN DEVELOPMENT; INTERSTATE COMMERCE LEGISLATION; NEGRO PROBLEM; NEW ENGLAND; PAPER MONEY IN U. S.; PUBLIC LANDS AND PUBLIC LAND POLICY; SILVER COINAGE CONTROVERSY; SOUTH; STATE SOVEREIGNTY; UNITED STATES AS A FEDERAL STATE; WEST AS A FACTOR IN AMERICAN POLITICS.

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FREDERICK JACKSON TURNER.

SECURITIES, FEDERAL COMMISSION ON.

The act of Congress creating the Commerce Court, approved June 18, 1910, provided for the appointment by the President of a commission to investigate questions pertaining to the issuance of stocks and bonds by railroad corporations, and the power of Congress to regulate such securities. The reasons for adequate regulation of these securities are: (1) the close relation between capitalization and rates and service; (2) to give adequate protection to investors; (3) as a groundwork for any federal incorporation law, a method of regulation now advocated by many in all parts of the country; (4) the inexpediency of allowing the officers and directors (who are probably the best judges as to the amount of debts a railroad should assume) to be the only judges on that point, inasmuch as dividends, profits, rates, service and other elements affecting the public are involved; (5) the conflict of jurisdiction between the statutes of all the various states and the statutes of the Federal Government as to construction, operation and financing of railroads, often resulting in inadequate regulation.

The main recommendations of the commission were (1) stringent provisions regarding the publicity of stock and bond issues; (2) the enactment of a statute stating the conditions under which the directors of such concerns should issue their securities and be held responsible for their proper issue; (3) that the Interstate Commerce Commission be given broad powers and adequate means for the valuation of railroad physical property.

See FRANCHISES, CORPORATION; LABOR, RELATION OF THE STATE TO; PUBLICITY OF CORPORATE ACCOUNTS; STOCKS AND BONDS.

Reference: *House Doc.*, 62 Cong., 2 Sess., No. 256 (1911).

CLYDE L. KING.

SEEDS, PUBLIC DISTRIBUTION OF. In 1839 Congress made an appropriation of \$1000,

authorizing the commissioner of patents to collect and distribute seeds, conduct agricultural investigations and procure agricultural statistics. In 1840 the systematic distribution of seeds was begun by the government. At first this distribution proceeded mainly on the idea of securing new and valuable seeds and plants from foreign countries for the general betterment of American agriculture. For many years, however, the general distribution of seeds has been confined mostly to standard varieties sent by members of Congress to their constituents. The patronage feature of the congressional free seed distribution has been strongly condemned for many years by a large section of the public, and efforts have been made to discontinue it; but the distribution seems to be firmly established as a congressional policy. In 1904 the appropriation was \$290,000; in 1912, \$237,130, the decrease representing improved administrative methods and the introduction of automatic packaging machinery.

The free-seed distribution of which the Department of Agriculture is made the agent cannot be understood or judged as a separate or single question. Since 1840 the formal governmental work for agriculture has evolved in the United States, and the seed distribution, which was once a leading motive, is now relatively but a small part of the entire enterprise. Although it is questionable whether Congress should give away seeds that can be regularly purchased in the market, other features of the distribution are properly within the office of government. About 70 per cent of these seeds are grown under contract with the Department of Agriculture, the remainder by bids under strict conditions of inspection and test. Effort is made to direct the distribution of these seeds to localities and regions to which they are adapted. These seeds represent the staple varieties of garden vegetables and flowers. An annual distribution of Dutch bulbs is made in autumn, and in 1908 a bulb garden was established in the State of Washington primarily for the purpose of propagating the bulbs for the congressional distribution.

The intent of the original act has recently been revived by the establishment of an Office of Foreign Seed and Plant Introduction. A separate appropriation of \$20,000 for this work was made by Congress in 1897; and for 1912 the amount is \$65,630. This office has established a very large connection with explorers, travelers, consuls, missionaries and others throughout the world, and it has made about 31,000 importations, some of them having already proved to be of much value.

A third form of seed distribution consists in distributing limited quantities of new or little known kinds of crop seeds, and breeding them for particular purposes, as varieties of cotton, forage crops, sugar beets, tobacco, and others.

See AGRICULTURE, RELATIONS OF GOVERNMENT TO.

References: *The Congressional Record*, No. 73, XLVIII (March 7, 1912), 3059-3066; Pieter, "Business of Seed and Plant Introduction and Distribution" in U. S. Dept. of Agriculture, *Report*, 1905, 291-306; L. H. Bailey, *Cyclopedia of Am. Agric.* (1907-09), 11, 70-80; Office of Foreign Seed and Plant Introduction, *Inventories*. L. H. BAILEY.

SEIGNIORAGE. Originally this term referred to the charge made by a lord or seigneur for coining; it now refers to the difference between the market value and the coining value of bullion which passes through the sovereign's mint. This constitutes a profit to the government. In 1910 the seigniorage in the United States Mints on subsidiary silver was \$2,469,000, on a total coinage of \$4,298,000. The net seigniorage on all silver (including dollars) coined since July 1, 1878, to 1910 inclusive was \$160,000,000. The seigniorage on minor coin (one and five cent pieces) in 1910 was \$1,917,000 on a coinage of \$2,339,000. See COINAGE AND SPECIE CURRENCY IN THE UNITED STATES; MINT OF THE UNITED STATES. **References:** Director of the U. S. Mint, *Annual Report*; W. M. Scott, *Money and Banking* (1903), 78-73. D. R. D.

SELECTMEN. Selectmen are found only in the New England states. They are officers of the town who manage its local affairs outside of the town meeting. They may be chosen annually or for three years with mandates expiring at different periods. The number of such officers in each town is variously given as three, five, seven, or nine. Some of the duties of selectmen are imposed by the town meeting, while other powers are conferred by statute.

The powers and duties of the selectmen include, in general, the calling of the town meeting, the care of town property, the establishment of highways and drains, the control of elections, and the granting of licenses. They may act as a board of health, as assessors, and as overseers of the poor. They adjust all claims against the town; but they have no authority to levy taxes. In some instances they appoint minor officers and may fill vacancies even among their own number. Again they may possess jurisdiction in probate matters. At the annual town meeting they are required to make a full and complete report of their doings. They represent and are "the government of the town during the intervals between the town meetings," and are responsible to the electors.

Historically the selectmen are among the earliest officers of the New England town, and their duties were far more numerous formerly than at present. The principal reason for their selection is suggested by the growth of the annual town meeting, which became too large for the transaction of much of the public business. Furthermore, the representative principle is evidenced by the fact that in some

instances the selectmen were "chosen out of each quarter of the town." At first they were selected as committees or "townsmen" for particular duties; their general functions came about through the increase of the delegation of powers by the town meeting.

Among the duties of selectmen in colonial days are the following: the admission of "newcomers as inhabitants of the town"; the temporary entertainment of strangers; the fixing of fines and penalties; the granting of permission to individuals to sell real estate; and the regulating of the use of lands generally. They were authorized also to employ teachers and prescribe regulations for the public schools; to settle disputes between the English and the Indians; and to set to work the idle and disorderly; and to care for the insane and feeble minded. Upon the action of these officers, under instructions given by the town meeting, rests much of the "success of the New England town government."

See EXECUTIVE AND EXECUTIVE REFORM; TOWN MEETING; TOWNS AND TOWNSHIPS.

References: J. Fiske, *Civil Government* (1890), 20, 24; G. E. Howard, *Local Constitutional History* (1889), 74, 167; J. A. Fairlie, *Local Government* (1906), 22, 156; E. Channing, "Town and County Government" in Johns Hopkins University, *Studies*, II, No. 4 (1884); statute laws of the New England states.

B. F. SHAMBAUGH.

SELF-GOVERNMENT. The principle of permitting definite government areas, as towns or cities, to regulate their local affairs. Also in a larger sense democratic government in

which the law proceeds from the people constituting the community. See LOCAL SELF-GOVERNMENT; MUNICIPAL GOVERNMENT; POPULAR GOVERNMENT.

O. C. H.

SENATE, COURTESY OF THE. The President's appointments to office must be made "by and with the advice and consent of the Senate" (Const. Art. II, Sec. ii, ¶ 2). Senators are likely to be better informed than the President as to political conditions and the availability of applicants from their own states. Since appointments must secure confirmation in any case, before submitting nominations the President usually takes counsel with the Senators from his own party. Senators have construed the right to advise and consent into a right to dictate appointments. They resent it—Conkling and Platt in 1881 even resigned as a protest—if the President makes an appointment from their state which they have not suggested or at least approved. If the Senators from the appointee's state are not of the President's party, he has a somewhat freer hand. The courtesy of the Senate is the rule or practice which requires that other Senators, in acting upon appointments from a given state, shall follow the lead of the Senators from that state. Of the result, President Taft has said: "The appointing power is in effect in their [the Senators'] hands, subject only to a veto by the President." See APPOINTMENT OF MEMBERS OF CONGRESS TO OFFICE; PRESIDENT, AUTHORITY AND INFLUENCE OF. References: C. A. Beard, *Readings in Am. Gov.* (1911), 212; W. Wilson, *Congressional Government* (12th ed., 1896).

G. H. H.

SENATE OF THE UNITED STATES

Constitutional Provisions.—The constitution given the Senate by the convention (see FEDERAL CONVENTION) of 1787 was the result less of deliberate design than of necessary compromise. Benjamin Franklin advocated a unicameral legislature; but the example of the British Parliament, and of the state legislatures, the desirability of a checking body, and most of all the persistent clash of interest between the large and small states, turned the scale in favor of the bicameral system. For a house of lords American society afforded no material. After long debate, it was settled, to the advantage of the small states, that the Senate should be composed of two Senators from each state. It was later determined that each Senator should have one vote. Moreover, this equality of representation was more strongly protected against change than any other section of the Constitution by the clause: "no state, without its consent, shall be deprived of its equal suffrage in the senate" (Art. V).

The Senate was made judge of the qualifications of its own members (Art. I. Sec. v, ¶ 1). In exercising this power, the Senate may not exact other qualifications than those laid down in the Constitution, but should determine as a judicial question, whether the candidate for admission possesses the qualifications thus specified.

Mode of Election.—After protracted debate it was determined that Senators should be elected by the state legislatures, thus ensuring a "filtration in the choice." For more than 75 years the election procedure varied in the several states until it was regulated by the law of 1866. Growing dissatisfaction with legislative elections led to a movement to amend the Constitution so as to provide for the election of Senators by direct vote of the people; meanwhile, discouraged by the delays encountered by the proposed amendment, many states secured the substance though not the form of popular control through convention instruc-

tions to the legislatures, through direct primaries (*see* PRIMARY, DIRECT), and even through popular elections, the results of which were declared by law to be a binding mandate upon the legislature (*see* SENATORS, ELECTION OF).

Instruction of Senators.—State legislatures, the constituencies of Senators, have often passed resolutions “instructing our Senators and requesting our Representatives in Congress” to do certain things. Though debated in the Federal Convention, the right of instruction was not mentioned in the Constitution. Publicists of weight deny its existence. On the other hand, Henry Clay (*see*), in the Senate, held that, although no legal penalties could be imposed for the disregarding of such instructions, a Senator was nevertheless bound either to obey them or to resign; and quite a number of Senators have thus resigned, rather than face the disapproval of the people in their home states (*see* INSTRUCTIONS TO REPRESENTATIVES).

Legislative Power.—In law-making the powers of the Senate are for the most part coördinate with those of the House. The Constitution prescribes (Art. I, Sec. vii, ¶ 1); “All bills for the raising of revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills” (*see* REVENUE, BILLS FOR RAISING). Through this amending power, the Senate has encroached seriously upon this privilege of origination. It has cut off all but the enacting clause of House bills, and substituted entirely different measures. In 1897 the Senate committee on finance met even before the opening of Congress, and drafted its own tariff bill, the provisions of which were later expressed in 872 amendments to the bill which “originated” in the House. In recent tariff legislation, the influence of the Senate has been dominant.

Non-Legislative Powers.—The Senate has certain executive powers which have added greatly to its ascendancy. The President is empowered “by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the senators present concur” (Art. II, Sec. ii, ¶ 2). President Washington declared that in the work of negotiation oral communication was necessary, and he appeared in person before the Senate and asked various questions in relation to a treaty, and the Senate prepared answers. At present, the treaty is ordinarily negotiated by the Secretary of State, acting for the President, and keeping in close touch with the Senate committee of foreign relations, or with some of the most influential leaders in the Senate. Occasionally a treaty has been sprung upon the Senate without warning. Thus, the treaty for the purchase of Alaska was ready for signature before any intimation was given that such a negotiation was under way. But such neglect

to take the Senate into confidence is likely to breed resentment, for the Senate considers itself an integral part of the treaty-making power, and has even gone to the point of passing resolutions urging that negotiations upon specific subjects be opened with certain countries. Nor has the Senate scrupled to amend treaties submitted for its ratification—notably the Hay-Pauncefote (*see*) arbitration treaty, 1900—to the great embarrassment of the administration, and to the annoyance of the other party to the compact. Foreign governments have become wary about entering upon negotiations until assured of the attitude of the Senate. In 1870 the Secretary of State gave the British envoy to understand that if necessary the chairman of the committee of foreign relations would be removed, in order that his great influence might not be exercised in opposition to the Treaty of Washington then pending.

Mere growth in numbers has put a severe strain upon the effective exercise of the Senate's executive powers. In the first Congress only ten states were represented. Twenty men, meeting constantly in a small room, could and did carry themselves as ambassadors, and their deliberations over matters of diplomacy resembled those of a large cabinet. But when the numbers approach one hundred, there can be no such intimacy of discussion or unity of purpose. Almost every treaty involves matters which are political issues, as affecting sectional or party interests, so that if one group in the Senate favors a treaty, their opponents look upon it with suspicion. The minister of a foreign state stands as the one representative of his own government. He knows the precise range of concessions and demands which that government will sanction. The game is in his own hand, and he can play it with astuteness and reserve. On the other hand, the American Secretary of State acts with the perturbing consciousness that before the proposed treaty can become valid, its every point must run the gauntlet of discussion and of amendment in a body of nearly 100 men, few of whom have any broad knowledge of international law or of this particular negotiation, but all of whom are party leaders, subject to strong sectional or political bias. Secretary Hay (*see* HAY, JOHN) used to declare that in negotiating a treaty with the ambassador of a foreign government, he felt as if he had one hand tied behind his back and a ball and chain about his leg, so hampered was he by the Senate. Since the war with Spain, American diplomatic relations have become immensely more complicated. The unfitness of a large, political body for handling matters which require reserve and finesse is proving a serious handicap if not menace to successful treaty-making (*see* TREATIES OF THE UNITED STATES).

Executive Session.—Whenever the Senate enters upon the consideration of treaties or of

appointments, it goes into "executive" or secret session. Criticism is often directed against this practice, as shutting out the salutary light of publicity (*see*). On the other hand, it is urged that both of these delicate tasks can best be performed behind closed doors, where, unbiased by popular clamor, the Senate may deliberate and act upon information which for reasons of state should not be noised abroad. That such reserve and secrecy might at times be of great public advantage is indisputable; but the obvious fact is that the secret session yields neither the best nor the worst results that might be expected from it, for the simple reason that it is not secret. The galleries may be cleared, but the walls of the Senate chamber leak, and in a few hours the daily papers give detailed though unauthoritative reports of the Senate's deliberations. Apparently, the seal of secrecy cannot be successfully imposed upon so large and varied an assembly. Senator X is too anxious that his constituents be informed of what he has said and done.

Confirmation of Appointments.—The Senate is also yoked with the President in the exercise of the appointing power. The Constitution requires that he "shall nominate, and by and with the advice and consent of the Senate, shall appoint" (Art. II, Sec. ii, ¶ 2) the various officers whose appointment is not otherwise provided for by the Constitution or by Congress under its warrant. This puts in the hands of a majority of the Senate—whatever its party or factional elements—great power to resist the President, if not to bend him to its will. The Senate may not appoint officers, but it can reject all of the President's nominees until he is brought to name someone acceptable to his senatorial advisers. The Senate does not demur at confirming the appointment of members of the Cabinet—they are the President's official household, responsible to him, and he must bear the blame if they prove ineffective; but other appointments are frequently rejected. This control on the part of the Senate was greatly strengthened by the growth of the "spoils system" (*see*) and the development of the "courtesy of the Senate" (*see* SENATE, COURTESY OF THE), the custom by which, in passing upon nominations, the Senators follow the lead of the Senators from the state to which the nominee is accredited (*see* APPOINTMENTS TO OFFICE; PATRONAGE).

Removals.—Through most of our history it has been accepted that the power of removal was inherent in the President's power to appoint. In 1867, however, in the midst of the bitter controversy between President Johnson and Congress (*see* RECONSTRUCTION) the tenure of office act was passed, which required that in making removals the President should secure the consent of the Senate. Failure to do so was specifically declared to be a "high crime and misdemeanor," and this was one of the

chief offenses later alleged against Johnson. This law was soon modified; in 1887 it was repealed altogether, and since that time the Senate has asserted no power over removals from office (*see* TERMS OF PUBLIC OFFICERS).

Impeachment.—To the Senate is given "the sole power to try all impeachments" (Art. I, Sec. iii, ¶ 6) which may be brought against the President and other civil officers of the United States (*see* IMPEACHMENT). Nine cases have been brought to trial. Six of the accused officers were federal judges, only three of whom were removed from office. A Senator and a Secretary of War, against whom impeachment charges were brought, resigned before the cases came to trial, so that the question as to lack of jurisdiction was a factor in determining the dismissal of the charges and the acquittal. In the case of President Johnson, the vote lacked but one of the requisite two-thirds. The procedure is much like that of the ordinary court. In the trial of Johnson, Senator Sumner insisted that the proceeding was primarily a mode of removal (*see*) from office, and hence that the Senate was not bound by the ordinary rules of evidence, nor were the Senators constrained to judicial reserve in speech or suspension of judgment. But this view has found slight acceptance.

Election of Vice-President.—Another non-legislative power was assigned to the Senate by Amendment XII (*see* TWELFTH AMENDMENT), which provides that if in the vote of the electoral college no person has a majority for Vice-President, "then from the two highest numbers on the list, the Senate shall choose the Vice-President." It is to be observed that only under these circumstances does the Senate select its regular presiding officer, although circumstances may transform the president *pro tempore* (*see*) into the regular occupant of the chair. By the Constitution the Vice-President of the United States is made president of the Senate (Art. I, Sec. iii, ¶ 4). His position in relation to the Senate is thus sharply contrasted with that of the Speaker in the lower house. Like the lord high chancellor in the House of Lords and like the lieutenant-governor in many of the states, he presides over a legislative body by virtue not of his membership but of his holding a certain non-legislative office. He may be called to hold the gavel over a Senate the majority of whose members are not of his own party. Hence his duties are those of a parliamentarian rather than of a party leader. He has no vote except in case of a tie, and this casting vote has been rarely used, though it was recorded three times in a single day in 1911 (Feb. 2). He can take no part in any debate; he appoints no committees, and has little influence in determining rules or deciding points of order. Doubtless the thrifty framers of the Constitution assigned these somewhat incongruous duties to the Vice-President with a view to preventing his hands

being idle and to enabling him to earn his salary, while otherwise his only service would be to "stand and wait." The office is not exhilarating, and does not appeal to presidential aspirants of strenuous temperament (*see VICE-PRESIDENT*).

Contested Elections.—Like the House, the Senate is made the judge of the elections, returns and qualifications of its own members (Art. I, Sec. 5, ¶ 1). Cases in which these matters are in question often drag through many months, and the final decision is likely to be determined by the party exigencies of the moment. In dealing with contested elections, however, two precedents seem pretty firmly established. The Senate refuses to accept the credentials of a man appointed by a governor to fill a vacancy which the legislature of his state has had ample opportunity to fill. In cases where bribery or corruption is alleged to have invalidated an election, it has repeatedly been held that it must be proved by legal evidence: (1) that the claimant was personally guilty of corrupt practices; or (2) that the corruption took place with his sanction; or (3) that a sufficient number of votes were corruptly affected to determine his election. Senators George F. Hoar (*see*) and Elihu Root (*see*) have protested vigorously against the Senate's construing its powers so narrowly, insisting that the Senate is the guardian of its own honor, and that in deciding the question whether a claimant is entitled to a seat, the Senate ought not to be limited by the strict rules of evidence which would obtain in a court of law. In the thirteen cases in which Senators have been brought to the bar of the Senate on charge of bribery or corruption, the accused was exonerated by the majority reports from the committees in ten cases; yet in all but two of the thirteen to a minority of the committee the guilt of the accused seemed probable. In two cases the committee reported that the Senator was "not legally elected"; in each of these instances the accused resigned before the committee's report was acted upon. One of them, W. A. Clark, was reelected by acclamation by the Montana legislature at the opening of its next session, and the Senate forthwith admitted him as without spot or blemish (*see ELECTIONS, CONTESTED*).

Rules and Discipline.—The Senate may punish its members for disorderly behavior, and with the concurrence of two-thirds, may expel a member (Art. I, Sec. v, ¶ 2). Censure and suspension have been imposed upon members for assaults within the Senate chamber. In 1797, Senator Blount of Tennessee was expelled for tampering with Indians for the advantage of the British. In 1861 eleven Senators from seceded states were expelled, and in the following year the same penalty was imposed upon Polk and Johnson of Missouri, and Bright of Indiana. The rules of the

Senate, unlike those of the House, do not need to be revised and adopted anew at the beginning of each Congress, since the Senate is a continuous body. Nor has it been necessary for the Senate to fetter itself by such drastic restrictions as obtain in the House. In the days when the Senate consisted of but twenty or thirty members, certain traditions of senatorial deference took their rise, and these are still jealously upheld, although at times they seriously hamper the enlarged Senate. Thus, in 1806, the Senate put an end to the right to move the previous question, and later Clay's efforts to revive it proved unavailing. There is no limit other than that of his physical endurance upon the length of time a Senator may speak. This is the Senate's specialized form of filibustering (*see*), and at the end of a session it often proves effective in extorting concessions or in talking measures to death. Thus in 1901 by a harangue of thirteen hours Senator Carter defeated the river and harbor bill, and in 1903, by the mere threat of a similar long-distance speech Senator Tillman forced upon an appropriation bill a claim of South Carolina for \$47,000 which the proper auditing authority had declared amounted to 34 cents. Mr. Cannon (*see CANNON, JOSEPH*), made a vigorous protest against this high-handed procedure, yet legislation of so much importance was at stake that the House had to accede to "this gift from the treasury, against the law, to the state of South Carolina." Repeated proposals have been made for placing a limit upon debate (*see CLOSURE*), but Senators as individuals and as party men are too jealous of what may at any moment prove an invaluable weapon to be willing to renounce it for the common good (*see RULES OF CONGRESS*).

Committees.—The Senate appoints its own standing committees. Nominally the selection is made by party caucus, but in fact the caucus often empowers its chairman to appoint a committee on committees, and its list is usually elected without protest or change, although that act may be tantamount to deciding the fate of the most important measures that are to come before that Congress. This procedure puts the control of the great legislative committees into the hands of a very limited number of men. A Senator is rarely removed from a committee except at his own request. The most notable instance was the removal of Charles Sumner (*see*) from the committee on foreign relations of 1871. Among members of the majority party on a given committee, seniority of service in almost every instance determines the chairmanship—a practice which sometimes places and keeps in positions of high responsibility men of low ability and of narrow interests. A notable departure from this seniority rule was made in the organization of the committee on appropriations at the opening of the 63rd Congress,

1913. In the 61st Congress the number of standing committees had grown to 72—ten more than those of the House and enough to give a chairmanship to every one of the 59 Senators of the majority party, however recent the beginning of his service. Ten chairmanships of minor and non-political committees were accorded to veteran members of the minority. With the chairmanship—even of the committees on revolutionary claims and on disposal of useless papers and documents—there goes the right to a committee room and to the appointment of one or more committee clerks and messengers, the list of whom contains some suggestive coincidences of names with those of the chairmen (*see COMMITTEE SYSTEM*).

"Equal Suffrage."—In recent years the equality of representation in the Senate presents inequalities which are growing yet more glaring. On its floor Nevada (81,875) stands the peer of New York (9,113,279), although in population the two states are in the ratio of one to 111. States having less than one-fifth of the population of the United States elect a majority of the Senate; Senators representing 8,000,000 people in 16 states might defeat a treaty approved by Senators representing 83,000,000. But the Senate was intended to represent not blocks of population but constituent elements in a federal union. Moreover, the force of such statistics as an argument against the states' "equal suffrage" in the Senate is lessened by two considerations. In the first place, theory and experience show that the small states do not align themselves over against the large states. The bonds that bring states into united action are sectional and economic. Nevada and Delaware have more interests in common with California and Pennsylvania, respectively, than with each other. In the second place, eminence of public service is not assured by the fact that a large population is represented. The smaller states have sent to the Senate and have retained there not a few men of the most distinguished merit. The time is not yet out of mind, when it would have been hard to select three of the smallest states which were then so shabbily represented in the Senate as were the three largest states in the Union.

Developments.—In the first years of its existence the Senate regarded itself as primarily an assembly of state ambassadors, closely associated with the President in executive tasks. In the generation before the Civil War the Senate was the scene of the all-engrossing debates over constitutional questions, and the eminence of the group of statesmen there assembled made it the dominant element in the government, a position of leadership which it has never lost, although its character has greatly changed (*see HAYNE, R. Y.; WEBSTER, DANIEL*). The smallness of the body as compared with the House, the long term, the gradual re-

newal of its membership, all tend to make it the goal of the political leader's ambition. The Senate has encroached upon the powers both of the President and of the House. It practically dictates a host of appointments. Through its ratifying of treaties it exercises far-reaching control over foreign relations. It has said the decisive word on most important points in every revenue-raising measure of the past generation. It makes radical increase in House appropriation measures. On the currency, the control of the trusts, the regulation of railways, the Senate's policy has prevailed. House debates and votes often show lack of responsibility, for it is recognized that the really vital consideration of the measure will come in the Senate.

As cause and also as effect of this growth in power, there has come a change in the elements that make up the Senate. As in Webster's day, two out of three of its members are lawyers, but they are no longer of the lawyer-statesman type. They are legal specialists, most of whose practice has been connected with great business interests. And the other third of the Senate is drawn in increasing degree from men of wealth or from those who have achieved success in the great financial, commercial or transportation enterprises. The result is that the Senate has come to be looked upon as the direct representative not of the individual states but of "political experience and the interests of property, that is, of the conservative elements in the state." The conditions which attend his election and which surround the Senator's daily service tend to strengthen and confirm a conservative bias. In the United States the organization of business enterprises is becoming centralized, oligarchic. The very conditions which have made the Senate dominant tend—entirely aside from any hint of corruption—to ally it in sympathy with the masters of business and of finance. Against such a class spirit in the Senate the urgent demand for election of Senators by direct vote of the people was a protest. Even before the passage of the Seventeenth Amendment (*see*), more than a third of the Senators were elected by methods which approximated popular control (*see POPULAR GOVERNMENT*). And not a few of the men thus elected had a large part in developing a new type of leadership.

The most powerful organ of the Federal Government is in a state of transition. How will it use its power? It may invite revolution by reactionary conservatism. On the other hand, it is conceivable that popular election may give control to demagogues whose radicalism will hasten disaster. Or the Senate may develop a leadership which will enable it to achieve the task of progressive melioration, acting as the mediator between an ever more intelligent democracy and the class interests of wealth and industrial centralization.

See CONGRESS: EXECUTIVE AND CONGRESS; HOUSE OF REPRESENTATIVES; PRESIDENT; RULES OF CONGRESS; SENATORS; SENATORS, ELECTION OF: TREATIES AS THE LAW OF THE LAND; VICE-PRESIDENT.

References: James Bryce, *Am. Commonwealth* (4th ed., 1910), I, 97-125; J. A. Woodburn, *Am. Republic* (1906), 196-245; P. S. Reinsch, *Am. Legislatures* (1907), 79-125, *Readings on Am. Fed. Gov.* (1909), 127-222; G. H. Haynes, *Election of Senators* (1906), 71-99; P. L. Kaye, *Readings in Civil Government* (1910), 156-183; S. E. Moffett, "Is the Senate Unfairly Constituted?" in *Pol. Sci. Quart.*, X (1895), 248-256; H. von Holst, "Shall the Senate Rule the Republic?" in *Forum*, XVI (1893), 263-271; W. Wilson, *Congressional Government* (2d ed., 1896). GEORGE H. HAYNES.

SENATE OF THE UNITED STATES, CONFIRMATION BY. See CONFIRMATION BY THE SENATE OF THE UNITED STATES.

SENATE, PRESIDENT OF THE. See PRESIDENT OF THE SENATE.

SENATE, STATE. Senate is the name which has been adopted in all the states for the upper branch of the legislature. Its size is usually fixed by the constitution. It varies from 17 in Delaware to 63 in Minnesota, and, in comparison with the numbers in the lower house, is from one-half or one-third in many of the states to one-fifteenth in New Hampshire. In the newer states, after each decennial census, the states is redistricted for the election of the fixed number of senators. In only two states, Illinois and Minnesota, does the same districting serve also for the election of members of the lower house. In most states, senatorial districts follow county lines, and, in New England, especially, the county itself is usually the basis for senatorial representation. Unequal representation results, sometimes from according a senator to each political unit—each Rhode Island town or city is represented by one senator; sometimes by limitations intended to restrict the influence of any one city—in New York, no county may have more than one-third of all the senators.

The senate differs from the other branch in its smaller size, and often in its term and qualifications. Following the example set in Congress, 25 of the states have prescribed for their senators a longer term (four years) than that of their representatives (two years), and in several states only one half of the senate is renewed at any one election. Many states insist upon a higher age qualification than for representatives: eighteen states prescribe 25 as the minimum age for a senator; nine set the minimum at from 26 to 30 years. A longer preliminary residence within the state is often required from senators than from representatives.

Such slight differences in qualifications are not sufficient to produce any considerable differences in the personnel of the two houses. But from its relatively small size and longer term, the senate tends to draw into its membership the abler and more experienced politicians of both the higher and the lower orders. The senate is the court for the trial of impeachments, and in a few states its approval must be obtained for the governor's appointments. Greater influence is also accorded the senate in amending the constitution; in Vermont, amendments must be initiated by the senate; in Massachusetts the approval of a mere majority of the senate is required, whereas two-thirds of the house must vote for the amendment.

See SENATE OF THE UNITED STATES; STATE LEGISLATURE.

References: P. S. Reinsch, *Am. State Legislatures* (1907); James Bryce, *Am. Commonwealth* (4th ed., 1910), I, 481-497; G. H. Haynes, *Representative in State Legislatures* (1900); Theodore Roosevelt, *Am. Ideals* (1897), ch. v, 63-101. G. H. HAYNES.

SENATORS. A Senator of the United States must have attained the age of thirty years, must have been nine years a citizen of the United States, and at the time of his election must be an inhabitant of the state for which he is chosen (Art. I, Sec. iii, ¶ 3). True to its name, the Senate is a body of men of mature years, for service in the Senate is usually the culmination of an active career. In the second session of the Sixty-first Congress (January, 1910), the average age of the 92 men then in the Senate was 59; not one was less than 40 years old, while two were 81. Thirty-five men were between 51 and 60, and twenty-four between 61 and 70. The average age at which they had entered the Senate was 51. Seven were of foreign birth. It is a significant fact that forty-five years after the end of the Civil War one out of five in the Senate was a veteran of that conflict. Eight had fought for the Union, and ten on the other side. Both Senators from three of the southern states were Confederate veterans.

Training.—A large proportion had served long political apprenticeships both in party organizations and in the elective public service. Twenty-eight had been delegates to national party conventions; thirteen had been members of national committees from their respective states; ten had served as presidential electors. The surprisingly large number of twenty-five out of the ninety-two had been governors, mostly in the southern and western states. Of more direct influence, both as affording training for senatorial service and as familiarizing them with the constituencies from which their elections must be secured and with which they must keep on good terms, was the fact that forty of the Senators had served in state legis-

latures. Thirty-six out of the ninety-two, including many of the Senators of most influence, had been promoted to the Senate after from one to ten terms of service in the House of Representatives. Such promotions are more common among the Senators from the North and East than from other sections.

The federal Senate is not an assembly of Olympians, but of keen men of affairs. Fifty-seven of the Senators in 1910 were men of college or university training, at least to the extent of having pursued professional studies. In its representation of the American people, the Senate presents some anomalies. First, there is the heavy predominance of lawyers—more than two-thirds of its membership. This proportion may be no higher than in the days of Webster and Clay. But the type has changed. In place of the lawyer-statesman, who had received his training in general practice, there now come the specialists—keen critics, it may be, of the practicability of measures, but often with a narrowed interest and outlook. In the second place, there is scanty representation of some of the most characteristic American fields of enterprise; agriculture, manufacturing and mining claimed but two each; mercantile interests, three; “business,” three. The explanation doubtless is that, while the tillers of the soil are little skilled as politicians and poorly supplied with the sinews of political warfare, the leaders in these other lines of enterprise are too deeply engrossed in their own affairs to be willing to accept senatorial office, and have preferred to be “represented by counsel”—hence the presence in the Senate from time to time of men who have been recognized as primarily railroad Senators, express-company Senators, oil, copper, silver or lumber Senators.

Character.—It may be that the Senate still contains “the best men that our system calls into politics,” but the last thirty years has seen a notable change in its personnel and temper. The committees on foreign relations and on the judiciary have been relegated to the rear, and the committee on finance takes the lead. In average ability the Senate doubtless ranks higher than the House. For one reason, two out of five of its members have been drawn from the House, which serves as a preparatory school for the aspiring politician or statesman. Once in the Senate, he finds far better opportunities for developing whatever ability he has. The long term, the gradual renewal, the small numbers, the greater freedom of debate, all combine to make a seat in the Senate a goal which is eagerly sought.

Criticism.—In the closing years of the nineteenth century much criticism began to be directed against the alleged influence of wealth in and upon the Senate. It is a conservative estimate that one Senator in five was a man of wealth running well into the hundreds of thousands of dollars. Not a few of these were

men whose eminent ability would naturally have brought them to the Senate, as a recognition of their effective leadership; some were “merely rich” men, whose presence in the Senate could be attributed to nothing else than their wealth; much more menacing than these were the few who had sought entrance to the Senate not because they were, but because they aspired to be, rich. The scandalous and long-fought campaigns by which a few millionaires sought to capture seats in the Senate, and the vast power which is obviously possessed by the individual Senator in connection with financial legislation gave rise to suspicions which doubtless did grave injustice to the rank and file of the Senate.

Influence.—The social prestige attaching to membership in the Senate is considerable. In Washington society at private functions and on occasions of ceremony a precedence is accorded to Senators and their wives which must be reckoned as one of the allurements of the office. Aside from his direct influence upon government, the Senator may exercise a far-reaching influence in politics. His control over appointments (*see* APPOINTMENTS; SENATE, COURTESY OF THE) may put him at the head of the party organization in his own state, and he is prominent in all its counsels. In the national party organization, also, Senators play leading parts, as members of national conventions, platform framers, and President makers.

See CONGRESS; HOUSE OF REPRESENTATIVES; SENATE.

References: James Bryce, *Am. Commonwealth* (4th ed., 1910), I, 113-125; M. D. Conway, “Ought the U. S. Senate to be Reformed?” in *Monist*, V (1895), 223-246; P. S. Reinseh, *Am. Legislatures* (1907), 79-125; G. H. Haynes, *Election of Senators* (1906), 71-99; “Senate in the Light of History” in *Forum*, XVI (1893), 272-281, “Still Aged Senate” in *Nation*, LXXXV, July, 1907, 5; “Shall Millionaires Run the Government?” in *Review of Reviews*, XXXV (1907), 340; C. L. Jones, *Readings on Parties and Elections* (1912), ch. v; *Congressional Directories*.

GEORGE H. HAYNES.

SENATORS, ELECTION OF. Legislation Concerning Method.—The Constitution provided that the Senators from each state shall “chosen by the Legislature thereof” (Art. I, Sec. iii, ¶ 1). In the constitutional convention James Wilson was the only man who advocated the election of Senators by direct vote of the people, or who made vigorous protest against their election by the legislatures. For more than 75 years Congress allowed the states to regulate the method of senatorial election. Deadlocks and contested elections were frequent. Accordingly, in 1866, a law was passed which prescribed that on the second Tuesday after the organization of the legislature, each house should by *viva voce* vote name one person

for Senator; on the following day the members of the two houses should meet in joint session, and the result of the previous day's balloting should be announced. If any candidate had received a majority in each house, he should be declared elected: if not, the joint assembly should convene each legislative day at noon, and take at least one ballot until a Senator should be elected by a majority of all the votes of the joint assembly.

Experience has proved this procedure faulty. It has given rise to frequent deadlocks, often lasting throughout the session, and resulting: (1) in a stampede of the legislature, at the last moment, for a compromise candidate; (2) in the turmoil and expense of a special session of the legislature for the sole purpose of electing a Senator; (3) in the state's being deprived for two years of its "equal suffrage" in the Senate. Such deadlocks might be prevented by amending the law so as to permit a plurality to elect; but this proposal has never received strong support, since its enactment into law might bring undeserved deprivation of a seat in the Senate to any majority party which happened to be split by faction. Moreover, in not a few instances these deadlocks have resulted from a fight against unworthy candidates who controlled a plurality.

Demand for Popular Election.—Since 1870 there has been an increasing demand that Senators be elected by direct vote of the people. Six times, at intervals between 1893 and 1911, a resolution for the proposing of a constitutional amendment to secure popular election of Senators was passed by the House of Representatives before it was allowed to come to a vote in the Senate, where (Feb. 28, 1911) it lacked but four votes of securing the requisite two-thirds majority. Meantime, a movement had been started by the Pennsylvania legislature in 1899 to attempt the untried process of initiating the amendment by a convention called for the purpose on application to Congress by two-thirds of the state legislatures. By the end of 1911 about twenty-five of the states had made valid application for the calling of such a convention.

The advocates of the popular election of Senators argued that the former system brought to the Senate men who had not the confidence of the public and who were little responsive to public opinion; that it blurred state and national issues in the election of members of state legislatures, and distracted the legislatures from their normal work; that the greatness of the prize, dependent upon the vote of a very few men, fostered bribery and corruption of legislatures, and had proved one of the chief causes of the disrepute into which they had fallen; that it stood in the way of a sensible reform of state systems of representation; that deadlocks often caused states to be partly or wholly without representation in the Senate.

On the other hand, it was urged that election

by the legislature secured a more intelligent choice than would be obtained by party convention or direct primary; that legislative choice accorded with the federal system, and that popular election would lead to a demand for state representation in the Senate in proportion to population. It was also claimed that popular election would impair the conservatism of the Senate, and greatly increase the number of contested elections.

Quasi-Popular Election.—In many states methods had been devised which already assured a large degree of popular control over senatorial elections. In states where one party was dominant, the indorsement of a particular candidate, either by direct primary or by the state party election, practically reduced the election by members of the legislature to a mere formality. In Illinois the law provided for a popular vote upon candidates for the Senate for the sole purpose of ascertaining the sentiment of the voters of the respective parties. Of states where party contests were close, Oregon was the first to work out a system which came close to making the direct election of Senators obligatory and certain. A direct party primary selected the party candidates and at the general state election a plurality determined the "people's choice" for Senator. Candidates for the state legislature were given an opportunity to pledge themselves to vote for the "people's choice," and voters by thousands pledged themselves to vote only for candidates who did thus commit themselves. A law of the state declared that the plurality obtained in the general election constituted "an instruction from the people of Oregon" to each member of the legislature to vote for the "people's choice." Accordingly, in 1909 a legislature which was Republican by a considerable majority, on the first ballot elected the Democrat who had led in the general election.

Seventeenth Amendment.—In the first session of the Sixty-second Congress a resolution passed by the House on April 13, 1911, was adopted by the Senate in an amended form on June 12, 1912. Agreement between the two branches was not reached before the close of that session, but the resolution was again introduced in the House in the form adopted by the Senate early in the second session. On April 13, 1912, the House adopted a resolution proposing the following amendment, in which the Senate concurred on June 12:

The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the State legislature.

When vacancies happen in the representation of any State in the Senate, the executive authority of such State shall issue writs of election to fill such vacancies: Provided that the legislature of any State may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

SEPARATION OF POWERS

The amendment was ratified in 1912 by the legislatures of Minnesota and Massachusetts. Before the middle of April, 1913, less than ten months after the proposed amendment had received the approval of the Senate, it had been ratified by the legislatures of 36 states. The Seventeenth Amendment was proclaimed as part of the Constitution on May 31, 1913, and the first election under the new system was held in Georgia on July 15, 1913.

See POPULAR GOVERNMENT; SENATE OF THE UNITED STATES.

References: G. H. Haynes, *Election of Senators* (1906); G. S. Taft, *Compilation of Senate Election Cases* (1903); J. Bryce, *Am. Com-*

monwealth (4th ed., 1910), I, 99-102; A. P. C. Griffin, *List of References on Popular Election of Senators* (1904); H. H. B. Meyer, *References Relating to Popular Election of Senators* (1911); C. E. Fanning, *Selected Readings on Election of Senators* (1909); A. A. Doub, in *Sen. Doc.*, 61 Cong., 3 Sess. (1911), No. 782; B. J. Hendrick, "Statement No. 1" in *McClure's Magazine*, XXXVII (1911), 505-519; P. S. Reinseh, *Readings on Am. State Gov.* (1911), 404-428; C. L. Jones, *Readings on Parties and Elections* (1912), ch. v; C. E. Fanning, "Selected Articles on Election of U. S. Senators" in *Debaters' Handbook Series* (1909); *Am. Year Book*, 1910-1913. GEORGE H. HAYNES.

SEPARATION OF POWERS

Governmental Practice.—The theory of the separation of powers has a twofold significance in the United States; one as a principle of governmental practice, and one as a doctrine of constitutional law.

As a principle of governmental practice it provides that the exercise of the several political functions known as executive, legislative and judicial, shall be vested, as far as practically possible, in different agencies or persons, which agencies or persons shall be, in general, independent of one another. The argument in justification of this principle has been that while thus endowing a government with adequate powers of control, the danger of oppression of the governed by those entrusted with this authority is minimized in that the coöperation of these independent departments is required for the purpose. Thus the legislative body does not execute the laws which it enacts; the executive but enforces the orders given it by the legislative; and the courts limit their functions to the interpretation and application of existing laws, and, for the enforcement of their decrees, are obliged to look to the executive arm of the government. As a principle of governmental practice the doctrine is thus closely related to the system of "checks and balances" (*see*)—a system which finds elaborate application in the Federal Constitutional system. This system goes somewhat further, in the partitioning of political powers, and the provision of restraints upon official actions, than is demanded by the theory of the separation of powers, for its aim is not simply to prevent oppression of the governed by their governors, but to avoid hasty and unwise action upon the part of the latter. Experience has shown that law-making bodies, though selected by the people and responsible to them, and, in general, actuated by good intentions, are especially subject to sudden passions and prejudices, under the influence of which unwise action may be taken. Hence not only are the

powers of public organs and officials limited in America by written constitutions, and, in general, the legislative, executive and judicial powers distributed to different departments, but, by dividing the legislature into two branches, differently constituted and chosen, the one branch is made a check upon the other; and, by giving to the President a qualified veto, he is made a check upon both; and, finally, the courts have, of course, the power to hold void such laws as have run the gauntlet but which are inconsistent with the provisions of the written Constitution. Again, in case of nonfeasance or malfeasance of office the executive is subject to impeachment (*see*) or removal (*see*) from office, the lower or popular branch of the legislature acting for this purpose as a jury of indictment, and the Senate as the trial court. And, finally, the people have a check through their suffrages upon all elected officers. The federal, and some of the state judges, alone have a tenure of office during good behavior, that is for life unless removed by impeachment.

Complete Separation Impossible.—The complete separation of executive, legislative and judicial powers, vesting the exercise of each in absolutely independent departments of government is recognized to be a practical impossibility. These three departments have to form one machinery of political control, and, if this machinery is to operate, its parts must be, in some measure, connected with one another, not simply as checks upon one another, but as integral parts of a single operative machine. Thus the President, in addition to his purely executive authority, participates in the performance of the legislative function not only by the recommendations which he makes to Congress, but by the use of his veto power (*see*). So also the Senate exercises executive functions when it participates in the approval of treaties and the ratification of presidential appointments to office. Both Houses of Con-

gress exercise judicial functions in impeachment proceedings and in the trial of contested election cases. And the courts in the appointment of court officers and the establishment of rules of practice and procedure, perform acts essentially executive and legislative in character.

Distinguishing Criteria.—The exact statement of the essential characteristics which distinguish executive, legislative and judicial powers or functions from one another is a problem of political theory which has given rise to a great deal of discussion. There are, indeed, not a few European writers who assert that governmental functions are divisible into but two classes; namely, the making, and the enforcing, of law; and that the interpretation of law is to be regarded as a part either of the executive or the legislative function, or of both (*see* EXECUTIVE POWER, THEORY OF; LEGISLATIVE POWERS, THEORY OF). Upon the other hand, there are those who recognize a fourfold division of political functions, distinguishing the discretionary power to issue and enforce administrative orders and decrees from the purely executive duties of enforcing law (with the armed forces of the state if necessary) and from those purely political acts which are not subject to judicial review. This distinction between the political and administrative functions of the President is pointed out in the article dealing with the constitutional powers of that officer (*see* PRESIDENT OF THE UNITED STATES, CONSTITUTIONAL POWERS OF). Professor Goodnow, in his *Politics and Administration* (1900), makes a twofold division of governmental functions, the one concerned with the formation of the policies which are to guide public action, and the other with the carrying out of these policies. In this work he shows how necessary it is to efficient government that those who decide upon the policies to be pursued should in some way be able to secure the proper interpretation and execution in good faith of those policies. The further point is made that where constitutional provision is not made for this coöperation and control the function is necessarily assumed by political party machines organized and operated outside of the government. The functions which political parties and their machines will perform in a state is thus shown to be dependent in a considerable measure upon the character of the government that is constitutionally provided.

Objections to Separation of Powers.—That the people of the United States pay a very heavy price for the security from oppression and the guarantee against hasty political action which the adoption of the principle of the separation of powers gives them is beyond question. Especially have evil results followed from the denial to the executive, both in the states and in the Federal Government, of an adequate power of direction and control, and this is particularly true with reference to the

raising, appropriating and expending of the public revenues. This is strikingly shown in Professor Ford's work, *The Cost of National Government* (1910). So, also, necessarily unsatisfactory results have followed from the attempts often made by Congress and the state legislatures to obtain that control over the administration of their laws which the federal and state constitutions deny to them, by including within their statutes detailed provisions as to the manner which they are to be enforced, and correspondingly limiting the discretionary powers of those executive and administrative agents who alone are able to judge wisely as to many of these matters. Closely connected with this principle of the separation of legislative from executive authority, is the disintegrated character of the administrative systems of our states. Here, unlike the federal system, is a distressing lack of centralized organization. The chiefs of the several administrative departments are without adequate powers of direction and control over their subordinates, and they themselves are not subject to the authority of a single executive chief. Most of these chiefs and many of their subordinates, being elected to office, feel little responsibility to anyone except to their constituents, and are, in fact, but slightly responsible in law to any superior. The movement in favor of what is called the short ballot, which of late years has made considerable headway, will tend to correct these evils, not only by decreasing the number of elective officers, but by increasing the administrative authority and responsibility of the higher officials.

Constitutional Theory.—Turning now to the separation of powers as a constitutional doctrine, it is to be remarked, first of all, that the principle received explicit statement in most of the early constitutions of the states, in the form of what is known as "distributing clauses," and that these clauses have continued to appear in most of the instruments of government which have since been adopted. Thus, for example, Massachusetts, in the constitution of 1780 provided that "in the government of this Commonwealth the legislative department shall never exercise the executive and judicial powers or either of them; the executive shall never exercise legislative and judicial powers or either of them; the judicial shall never exercise legislative and executive powers or either of them: to the end that it may be a government of laws and not of men." And Maryland in her first fundamental law declared that "the legislative, executive and judicial powers of government ought to be forever separate and distinct from each other."

This provision for a separation of powers is one which the states have adopted for themselves. It is not demanded of them by the Federal Constitution, for that instrument only provides that the governments of the states

shall be republican in form (Art. IV) and this requirement is satisfied when those in authority owe their election or appointment to the people, and are responsible to them and to the law for their official acts (*see REPUBLICAN FORM OF GOVERNMENT*).

The Federal Constitution contains no distributing clause, but the separation of powers is provided for by specific statements that all the legislative power that is granted shall be in Congress (Art. I, Sec. viii, ¶ 18), that the executive power shall be in the President (Art. II, Sec. i, ¶ 1), and that the judicial power shall be vested in one Supreme Court or in such inferior courts as Congress may from time to time ordain and establish (Art. III, Sec. i). These specific provisions, taken together with the accepted doctrine that the exercise of a power constitutionally granted to one department or organ of government may not by that organ or department be delegated to another, sufficiently establishes the doctrine of the separation of powers in the federal constitutional law.

Constitutional Doctrine Stated.—It has already been pointed out that it is not possible to carry out the principle of the separation of powers to such a complete extent that only legislative powers are vested in the legislative branch of the government, only executive powers in the executive branch, and only judicial powers in the courts. It is, therefore, not a correct statement of the doctrine, as a constitutional one, to say that each department is absolutely forbidden to exercise any powers except those, which, from their essential nature, belong to it. "Rather, the correct statement is that a department may constitutionally exercise any power, whatever its essential nature, which has, by the Constitution, been delegated to it, but that it may not exercise powers not so constitutionally granted which, from their essential nature, do not fall within its division of governmental functions, unless such powers are properly incidental to the performance by it of its own appropriate functions. From the rule, as thus stated, it appears that in very many cases the propriety of its exercise by a given department does not depend upon whether, in its essential nature, the power is executive, legislative or judicial, but whether it has been specifically vested by the Constitution in that department, or whether it is properly incidental to the performance of the appropriate functions of the department into whose hands its exercise has been given. Generally speaking, it may be said that when a power is not peculiarly and distinctly legislative, executive or judicial, it lies within the authority of the legislature to determine where its exercise shall be vested" (W. W. Willoughby, *United States Constitutional Law*, 1263).

Delegation of Ordinance-Making Power.—The essential function of legislative power is to declare rules of conduct, to create legal

rights and duties, and to establish principles of public policy. Having laid down a general rule or policy, it is competent for the legislative body to assign to some other agency the issuance of the specific ordinances or orders needed to put the rule into operation and to apply it to individual cases. The extent to which this delegation of the ordinance-making power, or of an administrative discretion, may be carried without rendering the grant void as an unconstitutional delegation of the legislative power itself, has been so liberally construed that the rule, though constantly reaffirmed as a principle, has been but seldom applied in practice. Thus, although it is recognized that the fixing of the rates that may be charged by public service corporations is a legislative function, laws have been upheld which have provided simply that the rates shall be just and reasonable, leaving to commissions the authority to determine, in specific cases, what rates meet these requirements. The extent to which the legislature is permitted by the courts to go in the grant of discretionary right of action to the executive is shown in the leading case of *Field vs. Clark* (143 U. S. 649) in which that section of the Tariff Act of 1890 was upheld which provided that whenever and so often as the President might deem the customs regulations of foreign countries with reference to certain specified articles to be reciprocally unequal and unreasonable, he should have the power to take such articles from the list of those entitled to free entry into this country.

It is well established that a legislature may not itself attempt to decide as to the legal rights or duties of individuals or corporations arising out of past actions, for this is primarily a judicial function. Thus, for example, the law-making body can determine what taxes shall be levied and what rates, but it may not determine just how much the assessment under such laws shall be upon specific individuals or pieces of property. Thus, also, a legislature may, by a so-called declaratory statute (*see*), fix the manner in which a given law shall be interpreted in the future, but it cannot control that interpretation as to actions, which have already occurred; and in general, it may be said that retroactive legislation, in so far as it impairs vested rights, is void (*see RETROSPECTIVE LEGISLATION; VESTED RIGHTS*). Justice Field of the Supreme Court in one of his opinions, stating the essential distinction between a judicial and a legislative act, said: "The one determines what the law is; the other prescribes what the law shall be in future cases arising under it. Whenever an act undertakes to determine a question of right or obligation, or of property, as the foundation upon which it proceeds, such act is, to that extent, a judicial one, and not the proper exercise of legislative functions;" and in the case of *Taylor vs.*

Place (4 R. I. 324) the court says: "The judicial power is exercised in the decision of cases; the legislature in making general regulations by the enactment of laws. The latter acts from consideration of public policy; the former is guided by the pleadings and evidence in the cases."

Courts Exercise only Judicial Powers.—The courts are no less quick to refuse to perform other than judicial acts than they are to interpose their veto when the legislative or executive departments attempt to impose upon them the exercise of other than their appropriate functions (see **POLITICAL QUESTIONS AND JUDICIAL AUTHORITY**). Thus in a very early case (Hayburn's Case, 2 Dall. 409) the federal judges before whom the question came refused to act judicially under a law of Congress upon the ground that their decisions were made reviewable by an executive officer and that, therefore, the duty could not be deemed a judicial one. See, also, *United States vs. Ferreira* (13 How. 40). And in *Gordon vs. United States* (117 U. S. 697) the Supreme Court refused to assume jurisdiction in a case "where its judgments would not be final and conclusive upon the rights of the parties, and process of execution awarded to carry it into effect." This whole subject is carefully reviewed by the Supreme Court in the case of *Muskat vs. United States* (44 Ct. Cl. 137) decided January 23, 1911, in which was held invalid an act which authorized the bringing of a suit in the court of claims, with an appeal to the Supreme Court, simply for the purpose of testing the constitutionality of certain acts of Congress. The judicial power which the federal courts may exercise, it was declared, is confined to the decision of cases and controversies, and these imply the existence of parties litigant having substantial legal interests to be determined, and does not include the decision of merely moot question (see **COURTS, FEDERAL**). The right to hold acts unconstitutional and void, the court says, is given to it not that it may exercise a revisionary power over the legislature, but "because the rights of the litigants in justiciable controversies require the courts to choose between the fundamental law and a law purporting to be enacted within the constitutional authority, but, in fact, beyond the power delegated to the legislative branch of the government (see **COURTS AND UNCONSTITUTIONAL LEGISLATION; LAW, CONSTITUTIONAL, AMERICAN**).

Administrative agents, in the determination of questions arising as to the applicability of the laws, the enforcement of which is placed within their hands, are often obliged to act in a manner and according to forms judicial in character, and in such cases the obligation of due process of law requires that the parties affected shall be given, at some stage of the proceedings, an opportunity to present such

facts as they may think pertinent to the claims which they make. Such administrative functions are, however, whatever their form, essentially administrative, that is, executive in character. They are not "cases" or "controversies" between parties litigant, and, therefore, their decision does not involve the exercise of judicial power in the strictest sense of the term.

See **CONGRESSIONAL GOVERNMENT; EXECUTIVE AND CONGRESS; EXECUTIVE AND JUDICIARY; JUDICIARY AND CONGRESS; LAW, ADMINISTRATIVE; ORDINANCES, EXECUTIVE**.

References: J. W. Garner, *Intro. to Pol. Sci.* (1910), 406-426; F. T. Goodnow, *Am. Administrative Law* (1905), *Politics and Administration* (1900); H. J. Ford, *The Cost of National Government* (1910); P. S. Reinsch, *Readings on Am. Federal Government* (1909), 47-78; W. Bondy, "The Separation of Powers" in *Columbia Univ. Studies*, V, No. 2 (1893); T. M. Cooley, *Constitutional Limitations* (7th ed., 1903), ch. v.; W. W. Willoughby, *Constitutional Law of U. S.* (1910), ch. lxiii.

W. W. WILLOUGHBY.

SERGEANT-AT-ARMS. The sergeant-at-arms is the chief police officer charged to maintain order in legislative bodies under the direction of the presiding officer. In the Congress of the United States the symbol of his authority is the mace, which must be borne by him while enforcing order on the floor. He has also certain other duties, such as the arresting of absent members upon a warrant issued for the purpose of securing a quorum of the House, the control of the capitol police, and the keeping of the accounts for the pay and mileage of members. **Reference:** A. C. Blinds, *Digest and Manual of Rules* (1908).

A. N. H.

SERVICE. The execution or legal delivery of a writ, process or notice, for the purpose of notifying the person served of some action or proceeding in which he is concerned. Actual service is either: (a) personal, i. e., by actual delivery of the instrument to the person served; or (b) substituted, i. e., by some legally defined equivalent, as by leaving a copy at the home of the person. Constructive service is such as is by law conclusively presumed to give notice, as by publishing the notice or mailing a copy of the instrument. H. M. B.

SERVICE, THE. As used in such phrases as "for the good of the service," or "when on service" is made equivalent to "on duty," this term implies the acceptance of an inherited tradition of loyalty and patriotism and a certain readiness to subordinate personal claims in the interest of organization and discipline. The service also meant in a larger way the body of soldiers and sailors with their officers, as an organized force. See

ARMY, STANDING; EDUCATION, MILITARY AND NAVAL; INSTRUCTIONS TO MILITARY AND NAVAL AUTHORITIES; MILITARISM; MILITARY LAW; OFFICERS, MILITARY AND NAVAL. **References:** War Department, *Military Laws* (1908), ch. xlvii; Navy Department, *Laws Relating to the Navy* (1898), 7-21; M. Schaff, *Spirit of Old West Point* (1907); E. H. Pitcairn, *Unwritten Laws and Ideals of Active Careers* (1899), 53-129. C. G. C.

SERVITUDE. Generally, the condition of being bound to service. In property law, a charge or burden resting upon one estate for the benefit of another. The term is derived from the civil law, and is approximately the correlative of the common law easement. Thus if A has a right of way over B's land, the latter is said to be subject to a servitude. H. M. B.

SERVITUDE, INVOLUNTARY. See INVOLUNTARY SERVITUDE.

SERVITUDE OF PERSONS. A personal servitude is the condition of being bound to service. While involuntary servitude except as a punishment for crime is abolished, there are relations recognized by law which impose some measure of personal service on the part of one person toward another, such as those of husband and wife and parent and child. An obligation of service also arises out of the contract of apprenticeship. See INVOLUNTARY SERVITUDE; THIRTEENTH AMENDMENT.

E. McC.

SERVITUDES, INTERNATIONAL. The word servitude used in Roman law to imply an obligation upon a person to refrain from or to permit some act to be done (*Digest*, VIII, I, 15), in international law implies an obligation of a servient state not to act in a certain manner or to allow a foreign state to do some act. Servitudes may arise from custom, prescription, or from treaty agreement. The right of innocent passage through the territorial waters of a state by ships of a foreign state is regarded as a general servitude. An obligation not to fortify a certain place may be a negative servitude. The obligation to allow exceptional use of the territorial waters by a foreign state would be of the nature of a positive servitude. Confusion has often arisen in the discussion of servitudes from failure to recognize that the servitude is in effect a restriction on the exercise of a state's jurisdiction rather than on its sovereignty. Servitudes received much attention in the North Atlantic Fisheries case in 1909. See EXTRATERRITORIALITY; FISHERIES, INTERNATIONAL; NAVIGATION OF INTERNATIONAL RIVERS; SUZERAINTY; TERRITORY IN INTERNATIONAL LAW. **References:** J. C. Bluntschli, *Le Droit International* (5th ed., 1895), §§ 353 et

seq.; M. Fabre, *Des servitudes dans le Droit International* (1901); W. E. Hall, *Int. Law* (6th ed., 1909), ch. ii; J. B. Moore, *Digest of Int. Law* (1906), I, 774 et seq., II, 18; P. Pradier-Fodéré, *Traité de Droit Int. Public* (1885-1906), II, §§ 834 et seq.; A. Rivier, *Principes du Droit de Gens* (1896); G. G. Wilson, *Int. Law* (1910), 153. G. G. W.

SESSION OF LEGISLATIVE BODIES. The national legislatures of nearly all countries either by constitutional requirement or by usage hold annual sessions. The Constitution of the United States requires Congress to assemble at least once a year, on the first Monday in December, unless Congress shall by law fix a different day (Art. I, Sec. IV, ¶ 2). Each Congress holds two regular sessions, one styled the long session which convenes on the first Monday in December of the year following the election and continues until adjournment in the late spring or early summer of the next year; and one, known as the short session, which convenes on the same day in the even numbered years and continues until the expiration of the terms of its members on the fourth of March following. In addition to the two regular sessions there may be as many extraordinary sessions as the executive may see fit to convene. Since the Constitution went into effect there have been eighteen such sessions, including that of the Sixty-third Congress.

The number, time, frequency and sometimes the length of the sessions of the state legislatures are regulated by the state constitutions. Three of them declare that the legislature shall be "frequently convened." In six states, (Georgia Massachusetts, New Jersey, Rhode Island, South Carolina and New York), annual sessions are now held. In Alabama the legislature meets quadrennially. In the remaining states biennial sessions are the rule. In all of them extraordinary sessions may be convened by the executive subject to the common requirement that the subjects which may be considered at such session must be specified in the proclamation calling it and subject also to restrictions as to the length of the session. The constitutions of a number of states limit the length of the session to a certain number of days. In others, particularly where the per diem method of compensation prevails, the constitution usually provides that after a certain number of days, the pay of members shall cease wholly or in part. The purpose of such limitations is to bring pressure to bear upon the legislatures to expedite their business and to protect the state against the evils of excessive legislation.

See CONGRESS; EXTRA SESSION; LEGISLATURE AND LEGISLATIVE REFORM; STATE LEGISLATURE.

References: A. C. Hinds, *House Manual* (1909), *Am. Year Book*, 1912, 176, 177.

JAMES W. GARNER.

SETTLEMENTS, COLLEGE. A term denoting neighborhood social centers where university or college trained social workers reside and seek to improve home and industrial conditions and sanitary surroundings, and provide opportunities for a normal social life. In 1860 Frederic Denison Maurice founded in London the "Working Men's College" where classes were taught by Cambridge graduates. In 1885 Toynbee Hall was founded by Oxford men. In 1887 the movement was inaugurated in America by Dr. Stanton Coit's establishment of the Neighborhood Guild (later the University Settlement) in New York. The movement rapidly spread to practically all the leading American cities.

See CHARITIES, ASSOCIATED; PUBLIC MORALS, CARE FOR; SOCIAL REFORM PROBLEMS.

Reference: W. D. P. Bliss, *New Encyclopedia of Social Reform* (1908), 1106-1109.

O. C. H.

SETTLEMENTS, SOCIAL. Social settlements are usually places of residence in the poorer districts of large cities where men and women live and share their educational advantages with their less fortunate brethren on a plane of fraternity and in an endeavor to understand and interpret the neighborhood life and the industrial standards of widely separated groups of people. Usually civic and moral efforts to give expression to a more real democracy furnish the chief continuous purpose.

Some settlements are distinctly religious in character, though most of them do not officially conduct religious meetings. Some are organized solely for men residents and other for women alone. All find the best opportunities for work are with the children and young people of their neighborhoods, organizing them in clubs for education and recreation, and through them getting the readiest access to the homes and the real problems of the lives of the people.

The movement began with Edward Dennison, in England, in 1867, when he, as a young man of wealth and position, took lodgings in East London, and began to visit the people of the neighborhood. Toynbee Hall was established in 1884 and the Woman's University Settlement in London in 1887. In America, Dr. Stanton Coit founded the Neighborhood Guild in New York in 1886. Out of this grew the University Settlement, now housed in a splendidly equipped building of its own. The College Settlement (women residents) in New York and Hull House in Chicago date from 1889. There are 413 settlement organizations in the United States listed in the latest *Handbook of Settlements* (1911), published by the Russell Sage Foundation, which also has in preparation a second volume on the history and present tendencies of settlement work in the United States.

Settlement workers have acquired a valuable fund of information that is used constantly through service on public commissions, on committees, in civic and political movements of all kinds, and by the administrative departments of state and city governments in dealing with many troublesome problems concerning immigration, labor laws, public health and sanitation, especially as affecting our foreign population.

See SETTLEMENTS, COLLEGE.

References: Jane Addams, *Twenty Years at Hull House* (1910); C. R. Henderson, *Social Settlements* (1898); R. A. Woods and A. J. Kennedy, *Handbook of Settlements* (1911); G. S. White, "The Social Settlement after Twenty-five Years" in *Harvard Theological Review* (January, 1911).

SAMUEL McCUNE LINDSAY.

SEVENTEENTH AMENDMENT. In response to requests by the legislatures of more than 30 states, Congress proposed in 1912 an amendment to the Federal Constitution providing for the election of United States Senators by direct vote of the people. The text of the amendment was as follows:

The Senate of the United States shall be composed of two Senators from each state, elected by the people thereof, for six years; and each Senator shall have one vote. The electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislatures.

When vacancies happen in the representation of any state in the Senate, the executive authority of such state shall issue writs of election to fill such vacancies: *Provided*, That the legislature of any state may empower the executive thereof to make temporary appointments until the people fill the vacancies by election as the legislature may direct.

This amendment shall not be construed as to effect the election or term of any Senator chosen before it becomes valid as part of the Constitution.

The proposing resolution was passed by the House on April 13 and by the Senate on June 12. Before its passage in the Senate the amendment had been ratified by the legislatures of three states, Massachusetts (May 22), Arizona (June 3), and Minnesota (June 10). Less than a year after its submission the Seventeenth Amendment received its thirty-sixth ratification (Wisconsin, May 9, 1913) and was proclaimed as part of the Constitution on May 31, 1913. The first Senator elected by popular vote was Augustus O. Bacon of Georgia, chosen on July 15, 1913, to succeed himself for the term expiring in 1919. See SENATORS, ELECTION OF. Reference: *Am. Year Book*, 1910, and year by year. F. G. W.

SEWARD WHIGS. A name given in New York politics, to distinguish those approving Seward's course in the U. S. Senate in 1850 regarding the compromise measures. See COMPROMISE OF 1850; SEWARD, W. H.; SILVER GRAYS; WHIG PARTY. J. S.

SEWARD, WILLIAM HENRY. William H. Seward (1801–1872) was born at Florida, N. Y., May 16, 1801. In 1822 he was admitted to the bar, and rose rapidly to prominence. He at first identified himself with the "Bucktail" wing of the Democrats, led by Tompkins; while a close friendship with Thurlow Weed continued through life. In 1824, however, he joined the Anti-Masons, though declining a proffered nomination to Congress. In 1830 he became state senator, and in 1834 was nominated by the Whigs for governor, but was defeated by Marcy. He was elected governor in 1838, and reëlected in 1840. He still remained a Whig, showed pronounced hostility to slavery, and was a prominent speaker in the presidential campaigns of 1844 and 1848. In 1849 he was elected United States Senator, and his "higher law" speech of March 11, 1850, made him one of the leaders of the anti-slavery forces. He opposed the Kansas-Nebraska bill, but was reëlected to the Senate in 1855 notwithstanding. In the presidential campaign of 1856 he supported Frémont, the Republican candidate, and was apparently the leading Republican candidate for President in 1860. After Lincoln's nomination he took part in the campaign, and was appointed Secretary of State, in which office his diplomatic ability was of great service in the difficult conditions of civil war. An unsuccessful attempt to assassinate him, as well as Lincoln, was made on April 14, 1865. He retained his secretaryship throughout Johnson's administration, negotiated the treaty for the Annexation of Alaska, and conducted unsuccessful negotiations for the annexation of Santa Domingo and the Dutch Islands. He died at Auburn, N. Y., October 10, 1872. See ALASKA, ANNEXATION OF; REPUBLICAN PARTY; SLAVERY CONTROVERSY; STATE, DEPARTMENT OF. **References:** W. H. Seward, *Works* (1883); F. W. Seward, *Seward at Washington* (1891); T. K. Lothrop, *William Henry Seward* (1896); F. Bancroft, *Life of William H. Seward* (1900).

W. MACD.

SEWERS AND SEWAGE DISPOSAL. **Nature of Sewage.**—The disposal of human excrement and other domestic and manufacturing wastes is one of the most urgent functions of the modern municipality and it presents some of the most difficult problems with which the sanitary engineer has to deal.

The term sewage is applied to the liquid or semiliquid wastes from residences and manufacturing establishments. Sewers are the underground pipes that collect and convey this waste, usually by gravity, to some central point where it may be discharged or disposed of otherwise. They are often designed to serve also as drains for carrying off the surface water from the streets, but in modern practice it is considered best to have separate pipes for sewage and for surface drainage. The sewage

of American cities is mostly water, there being only one or two parts of solids to one thousand parts of water. The solid matter consists of both organic and inorganic matter, and about two-thirds of it is held in solution or in colloid suspension. The quantity of sewage produced in any city is about equal to the quantity of water consumed.

The organic matter of sewage is subject to putrefaction and in that condition may become not only very offensive to the smell but deleterious to the public health. Sewage may carry the specific germs of contagious or infectious diseases and if discharged into bodies of water used for drinking, may introduce these specific germs into the human system, causing epidemics of the disease. Thus, typhoid fever is nearly always caused by drinking sewage-contaminated water containing the germ of that disease, called the typhoid bacillus. For this reason the practice of discharging raw sewage in considerable quantities into streams or bodies of water likely to be used for domestic purposes is now generally condemned, and great attention is given to methods of treating or purifying sewage before it is thus discharged. However, where small quantities of sewage are discharged into large quantities of water the danger is not very great, since the organic matter is rapidly oxidized and rendered harmless.

Purification.—A number of methods of purifying sewage are in use. A preliminary treatment common to most of these is the passage of the sewage through screens to remove the coarser masses, such as sticks, rags and other debris. Settling basins, in which the sewage is quiescent, or flows very slowly, allow a part of the solid matter to settle to the bottom, the partially purified liquid flowing off. The deposit on the bottom (called sludge) is periodically removed. The separation and settling of the solid matter may be expedited by the use of certain chemicals mixed with the sewage. Treatment of the raw sewage with certain chemicals, such as hypochloride of lime, sulphate of copper, etc., is sometimes employed to destroy the living organisms.

In many European cities the raw sewage is distributed over areas of land outside the city, where it is exposed to the air and absorbed by the soil, and the organic matter rapidly oxidized. This method is not regarded with favor in America.

The present tendency in American as well as European practice is toward the employment of what are called bacterial processes of purification. In these the object is to cultivate and facilitate the oxidising action of beneficent (harmless) bacteria which greatly reduces the solid organic matter and permits the inorganic matter to settle more rapidly to the bottom of the containing tanks. Two somewhat different plans are in use. In the one (called contract beds) the sewage is run into tanks

which are first filled with coarse broken stone or other materials, allowed to stand for a certain period and the liquid then discharged. After a period of rest and aeration the operation is repeated. A mass of bacteria soon forms over the surface of the stones and these rapidly oxidize a large part of the organic matter. In the other (called sprinkling filters) the raw sewage is sprinkled over a bed of coarse gravel or broken stone where like bacterial action takes place. In these bacterial processes those organisms that are detrimental to the public health are largely destroyed and the liquid effluent may safely be discharged into running streams. But in some cases it is further purified by filtering through beds of sand.

Sewer Construction.—Sewer systems are usually owned and controlled by the municipality. In a few cases, notably New Orleans until recently, the sewers were constructed and operated under a franchise from the municipality by a private corporation which charged the users a connection and service fee. In a majority of cases the cost of the sewer system is borne by the corporation, the cost of construction being met from the sale of bonds. In other cities the cost of construction is specially assessed against the property benefitted. In many cities the territory sewered is divided into sewerage districts and each district is specially assessed for the cost of its own sewers, various methods of applying the assessment being adopted for the equitable distribution of the cost. The cost of maintenance and operation is, in nearly all cases, provided for out of general funds raised by taxation.

See GARBAGE REMOVAL; HEALTH, PUBLIC, REGULATION OF.

References: J. W. Adams, *Sewers and Drains for Populous Districts* (9th ed., 1902); H. P. Raikes, *Sewage Disposal Works* (1908); A. P. Folwell, *Sewage* (6th ed., 1911); *Am. Year Book, 1911*, 458, 459, *ibid*, 1912, 289, 560, 640, 781; sewerage statistics of American cities in *Municipal Journal and Engineering*, May 3, 1911. SAMUEL WHINERY.

SEXES. See SUFFRAGE; SOCIAL EVIL, REGULATION OF; WOMAN SUFFRAGE; WOMAN'S LABOR; WOMAN'S LEGAL RIGHTS.

SEYMOUR, HORATIO. Horatio Seymour (1810-1886) was born at Pompey Hill, N. Y., May 31, 1810. He was admitted to the bar in 1832, but did not practice. From 1833 to 1839 he was military secretary to Governor Marcy, and in 1842, 1844, and 1845 was a member of the assembly, serving as speaker during the latter year. He was a delegate to the Democratic national convention in 1852, and the same year was elected governor. Largely because of his veto of a prohibition bill, he was defeated for reelection in 1854. He was a delegate to the Democratic national

convention in 1856, but declined a diplomatic post tendered him by Buchanan. He sided with the Union cause at the outbreak of the Civil War, and as governor from 1862 to 1864 aided in the suppression of the draft riots in New York City; but he was opposed to many of Lincoln's measures, and publicly criticized them. In 1868 he was nominated for the presidency by the Democrats, and received 80 electoral votes against 214 for Grant. He died near Utica, February 12, 1886. See DEMOCRATIC PARTY. References: J. D. McCabe, *Life of Horatio Seymour* (1868); DeA. S. Alexander, *Pol. Hist. of the State of N. Y.* (1906), II, III; J. F. Rhodes, *Hist. of the U. S.* (1893-1905). W. MACD.

SHAYS' REBELLION. In 1786 the social conditions of Massachusetts, like those of some of the other states, were badly deranged. The malecontents in Massachusetts were led by Daniel Shays, and armed conflict broke out between them and the government of Massachusetts. There were serious uprisings in various parts of the state. One of the objects of the insurgents was to prevent the courts from sitting and thus delay the trial of cases against the unfortunate. General Lincoln took charge of the state forces and succeeded in dispersing the rebels. The trouble, lasting for some months, sorely tried the government of the new state. The rebellion must be looked upon as one of the natural consequences of social and industrial disorganization growing out of a great war, which had stirred society to its depths, because it was not only a revolution but a civil war. See CONFEDERATION. References: A. C. McLaughlin, *The Confederation and Constitution* (1905), ch. x; J. B. McMaster, *Hist. of the People of the U. S.* (1907), I, 299-330; J. Fiske, *Critical Period* (1890), 177-186. A. C. McL.

SHERIFF. One of the principal county officers, representing the executive power of the state within the county; and more specifically the chief conservator of the peace and executive agent of the judicial courts. It is the oldest, and may be called the constituent county office.

English Precedent.—In the earliest days in England the shire reeve, or sheriff, was primarily the steward of the royal estates; but in the later Anglo-Saxon period he became also the president and chief executive of the shire court. After the Norman conquest, the office of sheriff was further developed as the chief agent of a strongly centralized perfectoral administration. His judicial functions and financial powers were increased; and he was also the local agent of the Crown in military affairs and as chief police magistrate.

Local opposition to abuses by the sheriffs and distrust by the Crown of the tendency towards hereditary appointments led, during

the Plantaganet period, to a decline in the powers and importance of the office. The development of feudal manorial courts, the itinerant royal courts, the justices of the peace, and later the municipal boroughs, and a special system of revenue officials, reduced the authority of the sheriff until he became simply a conservator of the peace, ministerial agent of the courts and returning officer of elections.

In England, the office has remained one of much dignity; and the annual appointments by the Crown are made from land owners of social position; while the active work is performed by a permanent staff under the immediate direction of an under sheriff who holds his position continuously.

American Type.—Sheriffs were provided, in the American colonies, with the organization of counties; and at first were appointed by the governors. But as early as 1705 the sheriffs in Pennsylvania became elective in each county; and by the middle of the nineteenth century the system of local election had been generally established, and is now followed in all the states except Rhode Island, where sheriffs are chosen annually by the general assembly. The usual term is two years, but in a few states the term is for four years. In many states reelection is restricted; in several states sheriffs may be removed for cause by the governor.

Functions.—The importance of the office has been further diminished in this country by the development of other officers, such as county treasurers and collectors, and prosecuting attorneys.

As conservator of the peace, the sheriff is the representative of the sovereign power of the state; and his power in this field is largely discretionary. This authority is of special importance in times of serious disturbances, when it is his duty to take measures to control disorder, and if necessary to call on the governor for military aid. But in ordinary times, this function of the sheriff is of less importance, as there are no organized forces of county police.

Most of the work of the sheriff's office is as executive agent of the judicial courts. He, or his deputies, attends the court sessions, serves summons, warrants of arrest and subpoenas, and executes the judgments of the courts. He has charge of the county jail, and also the hanging of those sentenced to death, except in the states where the death penalty is electrocution at the state penitentiaries. In the discharge of these ministerial duties, the sheriff is held to strict accountability.

In some states there are survivals of other functions, as in several southern states where the sheriff is tax collector and public administrator.

Sheriffs in the United States are most commonly paid by fees; but in several states a system of fixed salaries has been established.

Difficulties.—The present position of the sheriff shows a conflict between old traditions which held it the chief county post and the actual powers which make it one among a number of coördinate offices; while the system of local election serves to confuse his legal position as an agent of the state. The office tends to be a center of local politics; and as the sheriff is responsible for the acts of his deputies, these have not been brought under the merit system. For the bulk of the routine ministerial work of the office a permanent administrative staff would be more effective.

See COUNTY GOVERNMENT; ORDER, MAINTENANCE OF; STATE JUDICIARY.

References: J. A. Fairlie, *Local Government in Counties, Towns and Villages* (1906), 106–112; J. G. Crocker, *Duties of Sheriffs* (1899).

JOHN A. FAIRLIE.

SHERMAN ANTI-TRUST ACT, JUDICIAL INTERPRETATION OF. The Sherman Anti-Trust Act was passed July 2, 1890. Its important provisions are as follows:

Section 1. Every contract, combination in the form of trust or otherwise, or conspiracy in restraint of trade or commerce among several states, or with foreign nations, is hereby declared to be illegal.

Every person who shall make any such contract or engage in any such combination or conspiracy, shall be deemed guilty of a misdemeanor, and on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or both said punishments, in the discretion of the court.

Section 2. Every person who shall monopolize, or attempt to monopolize or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several states, or with foreign nations, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by fine not exceeding five thousand dollars, or by imprisonment not exceeding one year, or by both said punishments, in the discretion of the court.

This act has been the subject of a number of judicial interpretations by the Supreme Court. In 1895, a suit was brought to prevent the purchase by the American Sugar Refining Company of four refineries in Philadelphia on the ground that the purchase was a violation of the Sherman Act (*United States vs. E. C. Knight Co.*, 156 U. S. 1). The Supreme Court decided that the act applied only to restraints of interstate trade; that the business of the American Sugar Refining Company was primarily manufacturing; this fact did not authorize the Federal Government in asserting its authority over all combinations of manufacturing enterprises, organized under the laws of particular states. This decision was considered to legalize, so far as the Sherman Act was concerned, the large combinations, organized as holding companies under the laws of New Jersey.

Since the Knight case was decided, however, a series of decisions by the Supreme Court, beginning with the Northern Securities decision in 1903, has broadened the interpretation of the Sherman Act. In the Northern Securities

case (193 U. S. 197), of the Knight case it is said:

It was held that the agreement or agreements there involved had reference only to the manufacture or production of sugar by those engaged in the alleged combination; but if it had directly embraced interstate or international commerce, it would then have been covered by the anti-trust act and would have been illegal.

The leading case involving this point of the jurisdiction of the court over contracts in restraint of interstate commerce, is *Loewe vs. Lawler* (208 U. S. 274), where the Danbury Hatters Union had instituted a boycott to destroy the business of a manufacturer of hats. It was alleged in the demurrer to the complaint that the complainants resided at Danbury, Connecticut, and were "located and doing business as manufacturers and sellers of hats there." The Supreme Court held, without dissent, that a combination to boycott the goods of the Danbury manufacturers and prevent their sale in states other than Connecticut was in restraint of interstate trade. The Supreme Court in recent decisions declaring the Standard Oil and American Tobacco Companies to be illegal combinations and finally and formally rejected the view which was drawn from the Knight case. It is now settled that corporations engaged in manufacturing and selling in various states are engaged in interstate commerce, and if they represent unlawful restraints of trade, they are prohibited by the Sherman Anti-Trust law. Other leading cases arising under the Sherman law are *United States vs. Addyston Pipe Company* (see ADDYSTON PIPE CASE) (175 U. S. 211), and *Swift vs. United States* (196 U. S. 375, 396), and *United States vs. Trans-Missouri Freight Association* (166 U. S. 390).

See ADDYSTON PIPE CASE; CORPORATION CHARTERS; ELKINS ACT; MONOPOLIES; NORTHERN SECURITIES CASE; REASONABLENESS IN RESTRAINT OF TRADE; RESTRAINT OF TRADE; TRUSTS.

References: W. Z. Ripley, *Trusts, Pools and Corporations* (1905), v, 86-104, xiv, 322-38; Victor Morawetz, "The Sherman Anti-Trust Act" in *Am. Econ. Assoc. Quart.*, 3d Series, II (1910), 321-28; "Spirit of the Anti-Trust Law" in *Nation*, XC (1910), 204-205; T. Marburg, "Amendment of Sherman Anti-Trust Law" in *Am. Acad. of Pol. and Soc. Sci., Annals*, XXXII, 1908, 34-42; C. H. Montague, "Future of Sherman Anti-Trust Law" in *Independent*, LXV (July 16, 1908), 137-164; A. H. Walker, *Hist. of the Sherman Law* (1910); *Federal Anti-Trust Decisions, Anti-Trust Act of 1890* (cases decided in U. S. Courts, 1890-1906 published in 1907); *Am. Year Book*, 1910, and year by year.

EDWARD SHERWOOD MEAD.

SHERMAN, JOHN. John Sherman (1823-1900) was born at Lancaster, Ohio, May 10, 1823. In 1844 he was admitted to the bar. He

was a delegate to the Whig national conventions of 1848 and 1852, and in 1855 presided over the first Republican convention in Ohio. In the same year he was elected to Congress, and sat in the House until 1861. He was a member of the House committee which investigated affairs in Kansas, in 1856, and signed the majority report condemning the course of the proslavery faction. In 1861 he was elected United States Senator from Ohio, holding his seat until 1877. As member and chairman of the committee on finance he exercised a commanding influence, and was the author of the refunding act of 1870, and of the act of 1875 for the resumption of specie payment. From 1877 to 1881 he was Secretary of the Treasury, his greatest achievement in this capacity being the resumption of specie payment, January 1, 1879. In 1881 he was again elected Senator, retaining his seat until 1897. He was the author of the "Sherman Act" of 1890, for the compulsory purchase of silver and the issuance thereon of legal-tender treasury notes; and one of the framers of the anti-trust act of the same date. In 1884 and 1888 he sought unsuccessfully the Republican nomination for the presidency. In 1897 he was for a brief time Secretary of State. He died at Washington, October 22, 1900. See REPUBLICAN PARTY; TREASURY DEPARTMENT. References: John Sherman, *Recollections of Forty Years* (1895), *The Sherman Letters* (1894); T. E. Burton, *John Sherman* (1906); A. K. McClure, *Recollections of Half a Century* (1902).

W. MACD.

SHERMAN, ROGER. Roger Sherman (1721-1793) was born at Newton, Massachusetts, April 19, 1721. He learned the trade of shoemaker, educated himself, and in 1754 was admitted to the bar. The next year he represented New Milford, Conn., to which place he had removed in 1743, in the assembly, and subsequently held minor judicial offices. In 1761 he removed to New Haven. From 1766 to 1789 he was a judge of the superior court of Connecticut, from 1766 to 1785 a member of the senate, and from 1784 to 1793 mayor of New Haven. He sat in the Continental Congress from 1774 to 1781, and in the Confederation Congress until 1784. He was a member of the committee to draft the Declaration of Independence, and signed that instrument. In the Federal Convention he took a leading but conservative part, being chiefly remembered for his advocacy of equal representation of the states in Congress. From 1789 to 1791 he was a member of Congress, and was then elected to the Senate, retaining his seat until his death, July 23, 1793, at New Haven. See DECLARATION OF INDEPENDENCE; FEDERAL CONVENTION. References: L. H. Boutell, *Life of Roger Sherman* (1896); M. Farrand, *Records of the Federal Convention* (1911).

W. MACD.

SHERMAN SILVER ACT—SHIPBUILDING, REGULATION AND PUBLIC AID OF

SHERMAN SILVER ACT. A statute passed July 14, 1890, as a means of warding off a free coinage silver bill and named after Senator Sherman of Ohio, who favored it as a substitute for worse measures. It provided for the issue of Treasury notes, payable in coin and backed by fifty-four million ounces of silver, which were to be purchased annually. It was repealed Oct. 30, 1893. See **BLAND-ALLISON BILL**; **SILVER COINAGE CONTROVERSY**; **SPECIE CURRENCY IN THE UNITED STATES**. References: J. E. Burton, *John Sherman* (1906); W. V. Byars, *An American Commoner—Richard Parker Bland* (1900); John Sherman, *Recollections of Forty Years* (1895).
A. B. H.

SHINPLASTERS. A name given as early as the panic of 1837 to notes of small denomination issued on private responsibility as a substitute for small coin. Such notes were common during the early years of the Civil War. The name was also given to notes of small denomination issued by the government.
O. C. H.

SHIPBUILDING, REGULATION AND PUBLIC AID OF. The following table shows the American tonnage in the coastwise and foreign trade for certain years from 1789 to 1911:

duties and granted a discount of 10 per cent on import duties on goods brought in by American vessels. (2) July 20, 1789, a law was passed which imposed a tax of six cents a ton on American built ships, owned by Americans, and fifty cents a ton on ships constructed and owned abroad—American vessels in the coasting trade to pay this tax but once during the year, foreign vessels to pay it whenever they entered an American port. The effect was practically to bar all foreign carriers from the coastwise trade. (3) An Act of September 1, 1789, amended in 1792 and still on our statute books, confined American registry to vessels built at home and owned by actual residents of the United States.

Added tonnage duties were levied in 1804. On April 5, 1808, in connection with the Embargo Act, foreign carriers were forbidden to enter our coastwise trade. In 1809 this restriction was modified, but the Navigation Bill, of March 1, 1817, closed the coastwise trade to all vessels "belonging wholly or in part to the subject of any foreign power." This statute has never since been repealed and hence our vessels practically have had since 1792, a monopoly of our coastwise traffic, including the traffic with Hawaii, the Philippines and all our insular possessions.

Reciprocity in Tonnage Duties.—The marked

Year	Coastwise Trade Tonnage	In Foreign Trade Tonnage	Proportion of Foreign Trade in American Vessels		Commerce of United States
			Imports, Per Cent	Exports, Per Cent	
1789	68,607	123,893	17.5	30.	No record
1800	245,295	657,107	91.	87.	162,224,548
1820	539,080	583,657	90.	89.	144,141,669
1830	496,640	537,563	93.6	86.3	134,391,691
1840	1,144,634	762,838	86.6	79.9	221,927,638
1850	1,755,797	1,439,694	77.8	65.5	317,885,252
1860	2,599,319	2,379,396	63.	69.7	687,192,176
1870	2,595,328	1,448,846	33.1	37.7	828,730,176
1880	2,584,418	1,314,402	22.	13.	1,503,593,404
1890	3,330,377	928,062	16.6	9.	1,647,139,093
1900	4,195,875	816,795	12.9	7.1	2,089,528,616
1911	6,766,119	863,495	10.2	7.5	3,210,642,970

The United States merchant marine in 1911 totalled, in both foreign and coastwise trade, 25,991 vessels of 7,638,790 tons. For the same date, the total tonnage of the world according to Lloyd's Register was 43,147,154 tons, 19,418,824 tons of which were under the British flag and 4,466,888 under the German.

In contrast to other powers, American shipping is almost wholly devoted to domestic transportation, two-fifths of it being on the Great Lakes and the Mississippi River and its tributaries. The annual output of the ship yards of the United States was 614,216 tons in the fiscal year 1908, and 291,162 tons in 1911. About three-fourths of this tonnage is steam.

Protection to Coasting Trade.—The first Congress was much influenced by the shipping trade, and passed several protective acts: (1) July 4, 1789, it levied discriminating tonnage

effect of this prohibitive legislation was a growth in tonnage and business. In 1789 American ships carried but 17.5 per cent of our imports and 30 per cent of our exports; in 1796, 94 per cent of our imports and 90 per cent of our exports were carried in American bottoms. At the maximum in 1826, American vessels carried 95 per cent of the imports and 89.6 per cent of the exports.

In 1815 began a change from protection through tonnage taxes and discriminating duties to reciprocity. By 1826, reciprocity treaties had been obtained only with Great Britain, France, Sweden and Norway. Since 1826, thirty-nine countries, including all those of importance, have accepted the offer of reciprocity as to tonnage duties, so the United States can no longer be said to offer aid to ship building through discriminating taxes and duties.

Subsidies.—On March 3, 1845, a new policy was adopted, that of aiding shipping through grants to certain lines for the carriage of mails. From 1845 to 1857 about \$14,500,000 was paid by the government for this service. This plan was abandoned from 1858 to 1865 when a grant was made to a line operating between New York and Rio Janeiro, \$1,500,000 being paid out altogether before the grant was withdrawn. In 1865 a grant was made to the Pacific Steamship Company for operating ships to the Orient. When this contract expired in 1877, the company had received from the national government a total of \$4,500,000.

The mail subvention was renewed in 1891 by a statute authorizing postmasters general to make five to ten year contracts with steamers carrying foreign mail, the maximum to be paid therefor being fixed at a price greater than the services actually rendered to the government were worth. In 1912, there were but seven contracts in operation under this law, six for ten year terms and one for a five year term. During the fiscal year ending June 30, 1911, the total cost of the contract mail service under the Act was \$1,074,945.29 an excess cost of \$240,059.29 over the amount that would have been allowable for the conveyance of the mails carried if the conveying steamers had not been under contract in accordance with the Act.

Advantages in Building.—The United States aids her merchant marine indirectly in many ways. Free service is rendered by various departments of the national government, such as the light house department (*see*), coast survey (*see*), hydrographic department (*see*), weather bureau (*see*), and life saving service (*see*). The most valuable aid, aside from giving to our shipping a monopoly on the coastwise traffic and the advantages of the registry law in building ships, is principally in letting large naval contracts to American ship yards and from free importation of building materials to be used for vessels in the foreign trade.

Causes of Decrease.—The noted decrease in our foreign shipping cannot be attributed solely to the want of national aid. Its phenomenal growth during the earlier years was not due so much to the aid received from discriminating national legislation as it was to the ability to build wooden ships more cheaply than could any other nation. When wooden ships gave way to iron ships, this definite advantage was lost, and this as a negative check was followed by heavy losses during the Civil War.

Another potent reason for the want of greater investments of American capital in American shipping is that both capital and labor can secure higher returns in other industries. Moreover, ship owners must pay higher wages in building and operating ships. The American protective tariff, by checking imports,

makes it more difficult for vessels to obtain return cargoes. The registry law, which opens to American registry only those vessels built at home, closes to ship owners the opportunity of buying cheaper ships abroad, unless, as is frequently the case, shipowners buy such ships and sail them under foreign flags.

Suggestions for Rehabilitation.—Numerous suggestions have been made for rehabilitating our merchant marine. (1) The repeal of the present registry law, thus allowing ship owners to buy abroad at lower prices. The registry law helps ship builders but not ship owners; all other nations have repealed their discriminating registry laws, England as far back as 1849. (2) Extension of the postal-aid law of 1891 to all vessels conforming to requirements as to speed, and so built that they may be transformed into auxiliary cruisers in time of war. Such vessels, however, are limited in their profitableness in time of peace, and are of relatively little value as ships of war. (3) The granting of money subsidies (*see* SUBSIDIES TO SHIPPING).

See LABOR, RELATION OF THE STATE TO; MAIL SUBSIDIES; NAVIGATION, REGULATION OF; SHIPPING, REGULATION OF; SUBSIDIES TO SHIPPING.

References: W. J. Abbott, *American Merchant Ship and Sailor* (1902); Commissioner of Navigation, *Annual Reports*; W. W. Bates, *Shipping Restoration* (1907); W. L. Marvin, *Am. Merchant Marine* (1902); R. Meeker, *History of Shipping Subsidy* (1905).

CLYDE L. KING.

SHIPPING, REGULATION OF. Vessels of the United States are defined by statute as those belonging to citizens of the United States, and enrolled as such with the commissioner of navigation. All vessels, except canal boats, must be enrolled, and secure a license. This enrollment includes a description of the vessel and its name and number. The name of the vessel cannot be changed under pain of forfeiture of the vessel, save with the consent of the commissioner of navigation.

Each vessel before it sails for a foreign port must secure a passport to be deposited with the United States consul upon the vessel's arrival at its destination. The pilots, engineers, masters and mates of all United States vessels must be citizens of the United States, and must secure a license based on inspection, and issued by a board of local inspectors, central supervision over which is vested in a board of supervising inspectors. The circuit court judges appoint shipping commissioners for each port of entry; their special duty being to supervise the shipping articles signed by apprentices, and to give protection and relief to American seamen, with powers over their wages, effects, food and employment. When the ship is in a foreign port, these duties vest in our consuls.

All vessels bearing passengers to the United States must provide at least one hundred cubic feet per passenger, and must not take on over one passenger to every two tons of vessel and sixteen feet of deck space. The laws also prescribe the amount and character of provisions that must be taken on board for each passenger. The vessel, upon reaching its destination in this country, is inspected by an inspector of the customs, to see that all rules and regulations have been complied with.

In order to prevent collisions and accidents, statutes and regulations in minute detail fix the character and position of lights and of signals, the nature of sound signals, of steering and sailing rules and the use of distress signals. These regulations are different for: (1) the sea; (2) the Great Lakes and tributaries; (3) rivers, harbors and inland waters; (4) the Red River of the North and the tributaries of the Gulf of Mexico.

The liability of the owner of any vessel for any and all losses or destruction to merchandise or other freight is limited to the amount of the value of the interest of such owner in such vessel and her freight then pending. The liability as to freight pending is limited to the sum of money received for freight on the voyage during which the accident occurred, not for the return trip. If the liability is greater than the whole value of the vessel and freight for the voyage, the damage is divided up among the various owners in proportion to their respective losses. Of course, due diligence must be used and the statutes specifically provide that covenants tending to avoid due diligence are null and of no effect. The limitation of liability does not apply to vessels used in rivers or inland waters.

The administration of shipping regulations and the supervision of shipping is vested in the bureau of navigation, headed by the commissioner of navigation, the bureau being a division of the Department of Commerce and Labor (*see*).

Reference: U. S. Commissioner of Navigation, *Reports*. CLYDE L. KING.

SHIRES IN GREAT BRITAIN. Origin.—England and Scotland are each divided into districts known as shires or counties, which are both local areas for certain purposes of central administration and also the largest local government district. In the south and the extreme north of England, some of the shires represent the original districts of the earlier Anglo-Saxon kingdoms or distinct bodies of the Teutonic peoples, which retained some elements of self-government after their absorption in the larger kingdom. In the midlands, the shires were districts created for convenience of administration.

Shire Court.—During the later Anglo-Saxon period in England, the public business of each shire was managed by a semi-annual court,

composed of representatives from each township and individual landowners, though the latter may have been represented by the twelve senior thegns from each hundred. The principal function of this court was the administration of justice. The initiative and active control of affairs rested in three officials,—the ealdorman (representing the earlier royal families or local nobility), the sheriff (the representative of the Crown), and the bishop, who presided in ecclesiastical cases.

Officials.—After the Norman conquest the disappearance of the earls and bishops from active functions in the shire court paved the way for the supremacy of the sheriff, as the chief agent of the Crown in a highly centralized administration. Later, however, with the development of travelling royal judges, feudal manorial courts and justices of the peace, the powers and importance of the sheriff and the shire court, were diminished (*see* SHERIFF).

Under the Tudors, the powers of the justices of the peace were further developed, and a new office of lord lieutenant for each county was established at the head of the militia system. The local officials were also under the active supervision of the privy council.

Seventeenth Century.—Later the active control of the privy council declined; and the machinery of shire government at this time formed the basis for the early county governments in the American colonies. The principal officials were the lord lieutenant, the sheriff, the coroner and justices of the peace. All but the coroner were appointed by the Crown, but from the landed classes, and as the positions were unsalaried local administration in practice was much decentralized. The sheriff was chief conservator of the peace and executive agent of the royal courts, and presided over the fast waning shire courts, where small civil cases were tried and county members of Parliament were elected. Local administration was mainly in the hands of the justices of the peace. In addition to their functions individually and in petty sessions, the justices in each shire formed collectively a quarterly court of criminal jurisdiction which also acted as the fiscal and administrative authority for the shire.

Reorganization.—This system of shire government in England remained much the same during the eighteenth and most of the nineteenth century. Even after the reform of the House of Commons and the municipal corporations, radical changes in poor law administration and important developments in other branches of local government, the shire administration continued in the hands of the landed gentry as justices of the peace. In 1888, however, there was established a system of county councils (*see*) elected on a substantially democratic basis, to which was granted the administrative powers of the jus-

tices of the peace and also additional powers of local government. The justices continue to exercise their judicial functions; and the control of the county police is exercised by a joint committee of justices and members of the county councils.

Scotland.—In Scotland the earlier system of shire government has left more traces on the present arrangements. The sheriff continues his judicial functions; and is in fact the principal judge for the local trial of cases. In 1889 elective county councils were established as in England.

See **COUNTY COUNCIL IN GREAT BRITAIN.**

References: G. E. Howard, *Local Constitutional History* (1889), 298-318; J. A. Fairlie, *Local Government in Counties, Towns and Villages* (1906), ch. i; D. J. Medley, *Manual of English Constitutional History* (1907); S. and B. Webb, *English Local Government, the Parish and the County* (1906), Bk. ii; Redlich and Hirst, *Local Government in England* (1903), Bk. II, Pt. II; W. B. Odgers, *Local Government* (1899), ch. x.

JOHN A. FAIRLIE.

SHIRT SLEEVE DIPLOMACY. A title which has been given to some of the diplomacy of recent years which has disregarded much of the circumlocution and indirectness of earlier practice and has stated clearly the purpose of the negotiation and the methods by which a state proposed to attain the purpose. This term has been particularly applied to the diplomacy of the United States from the late years of the nineteenth century. See **DIPLOMACY AND DIPLOMATIC USAGE.**

G. G. W.

SHOESTRING DISTRICT. A name applied to the sixth congressional district of Mississippi, about 300 miles in length and 20 miles in breadth—a most flagrant example of gerrymandering. See **GERRYMANDER.** O. C. H.

SHORT BALLOT. See **BALLOT, SHORT.**

SHORT HAIRS. A term said to have been coined by John Morrissey in New York in 1876 denoting the common man and "toughs" in politics in contradistinction to the fashionable "swallow tails" (*see*). O. C. H.

SHORT HAUL. See **LONG AND SHORT HAUL.**

SIC SEMPER TYRANNIS. The motto of the state of Virginia, made memorable by its use at the assassination of Lincoln by Booth as he leaped upon the stage from the President's private box at Ford's theatre.

O. C. H.

SIDE JUDGES. In Pennsylvania there has been from early times a system of judges not

learned in the law, who sit beside the regular judge. The purpose is to fortify the legal knowledge of the judge with the common sense of the farmer or store-keeper. The side judges have little influence on the decision of cases, for they cannot lay down any principles of law before the jury. See **COURT, COUNTY; STATE JUDICIARY.** A. B. H.

SIDEWALKS. Sidewalks are more generally used by the public than other portions of the street, and yet, as a rule, receive far less attention both from the public and the official, not only than any other part of the street, but than any other portion of city work. Sidewalk construction is, in most places, left to the individual owner, subject to few or no municipal regulations or restrictions.

American cities could with profit follow the precedents established in Germany, where due care and attention is given both to the construction and maintenance of the sidewalks. Not only is the portion used by pedestrians kept in order, but due provision for the underground conduits is made, so that they can be reached without the tearing out of the whole sidewalk or of the street between the curbs. Moreover, the whole construction is designed to be esthetic as well as useful. Only a beginning in this direction has been made in American cities.

Brick, flagstone, asphalt and cement are the prevailing materials used in American sidewalks. The cement walk so common in the United States is used to a much less extent in Germany. Many of the German walks are made of concrete mosaics on a cinder subbase of an adequate thickness.

As a general rule, the cost of sidewalk construction is borne by the owner of the abutting property, although in an increasing number of cities the requirements as to material, width and subbase are becoming more numerous. In some few cities the cost is paid out of the general city treasury. In others a combination of the two plans is followed.

Sidewalks form an important part of business properties, being used for display and storage. In many communities ordinances prohibiting such use of the sidewalks are openly defied, the authorities winking at the practice in exchange for the political support of the owners or tenants of the abutting property. In foreign quarters a general use of the sidewalk to the inconvenience and danger of the pedestrian is permitted, in exchange for political and personal advantage. The prevailing American practice in regard to sidewalks is to give the first consideration to the interests of the owner or tenant, second to the pedestrian, and lastly to the city, the exact reverse of the most approved foreign practice.

See **PUBLIC WORKS, NATIONAL, STATE AND MUNICIPAL; STREETS.**

References: P. B. Beery, *Portland Cement in Sidewalk Construction* (1909); Concrete Publishing Co., *Concrete Sidewalks* (1911); A. A. Houghton, *Concrete Floors and Sidewalks* (1910); C. Richardson, *Modern Asphalt Pavement* (1908); L. J. Riegler, *Failures in Concrete Sidewalks and how to Correct Them* (1911). CLINTON ROGERS WOODRUFF.

SIDNEY, ALGERNON. See POLITICAL THEORIES OF ENGLISH PUBLICISTS.

SIGNAL CORPS. The Signal Corps of the United States Army exercises general supervision over the signal service, is charged with the construction, operation and maintenance of military lines of information, and performs all other services required by the field service regulations, such as the maintenance of one aero-wireless battalion for each field army. It also operates the Government telegraph systems in Alaska and the Philippine Islands, supervises fire-control installations for coast defense, and has charge of wireless telegraphy and military aeronautics. **References:** Secretary of War, *Annual Report*; C. H. Van Tyne and W. G. Leland, *Guide to the Archives* (2d ed., 1907), 132-133. A. N. H.

SILK STOCKINGS. A derisive appellation bestowed by the "practical politicians" upon

those citizens of wealth and high social position who occasionally interfere in politics in support of some reform measure or candidate. O. C. H.

SILVER CERTIFICATES. During the Civil War when gold was at a high premium, the United States under a statute of 1863, received gold deposits and issued certificates for them which were transferred from hand to hand as a gold currency (*see* GOLD CERTIFICATES). After the resumption of specie payment in 1879, these certificates were still continued because of the convenience in handling large denomination notes rather than the coin. The first silver certificates, issued under the Bland Act (*see*) of 1878, were intended in the same way to replace the so-called cart-wheel dollars with notes which were easier to handle. The certificates issued under the Sherman Act of 1890 were made redeemable in coin. The silver certificates of all kinds have circulated at par in gold because of the public and justified belief that the government would hold them a specie liability. See COINAGE AND SPECIE CURRENCY; LEGAL TENDER CONTROVERSY; PAPER MONEY; SILVER COINAGE CONTROVERSY. **References:** D. R. Dewey, *Financial Hist. of the U. S.* (1903); *National Problems* (1907); J. H. Latané, *Am. as a World Power* (1907), 121-127, 231-234. A. B. H.

SILVER COINAGE CONTROVERSY

Demonetization of 1873.—The act of February 12, 1873, dropped the standard silver dollar from the list of coins to be thereafter issued from the mint (*see* COINAGE). In the following year by a general revision of the statutes the legal tender power of all silver coins was limited to five dollars. Silver dollars had not been in circulation for a third of a century. Not only had all forms of metallic money disappeared from circulation since the suspension of specie payments in December, 1861, but there was no inducement to bring silver to the mint, as by the legal ratio of 16 to 1 it was undervalued compared with gold. The average commercial ratio in 1872 was 15.63 and in 1873, 15.92. So completely had the silver dollar passed out of use that little significance was attached to its omission from the list of coins or to its demonetization. Practically no opposition was made; there was but little discussion, and indeed many, members of Congress, were not aware of the change.

Fall in Silver, 1871-1875.—In 1871 to 1873 Germany demonetized silver, and immediately the metal began to fall in value, as seen in the following table of ratios between gold and silver:

1874	-----	16.17 to 1
1875	-----	16.58 to 1
1876	-----	17.87 to 1
1877	-----	17.22 to 1
1878	-----	17.94 to 1
1879	-----	18.39 to 1
1880	-----	18.04 to 1

In 1875 Congress, after much halting and delay, devoted its attention to the resumption of specie payments, and the status of the monetary medium to be restored assumed new importance. Moreover, there was an agitation for an increase in the volume of currency as seen in the efforts to secure an inflation of the greenback issues. This was checked by a veto of President Grant, April 22, 1874, and the inflationists turned to silver as a possible means to accomplish their end. An additional influence in strengthening the movement for the rehabilitation of silver was the increased supply of the metal from mines recently opened in Colorado. The annual product of silver in the United States from 1865 to 1880, in ounces, was as follows:

1865	-----	8,507,000	1875	-----	24,539,000
1870	-----	12,375,000	1876	-----	29,996,000
1871	-----	17,789,000	1877	-----	30,778,000
1872	-----	22,226,000	1878	-----	35,022,000
1873	-----	27,650,000	1880	-----	31,566,000
1874	-----	28,863,000	1880	-----	30,319,000

Bland-Allison Silver Act.—Naturally the operators of these mines viewed with alarm any fall in the value of the metal and were united to stop it, if possible, by legislation. The contest began in Congress in 1876. Representatives from both parties joined in the effort to restore silver dollars to coinage, Kelly, of Pennsylvania, a Republican, and Bland (*see*) of Missouri, taking the leadership. A commission composed of three Senators, three Representatives, and three experts, was authorized to investigate and report upon the policy of remonetization. The majority of the Commission reported favorably on the grounds that the fall in the value of silver was due to demonetization rather than increased production; that, owing to the decreased production of gold, silver was needed; that prices would be more stable under a double standard; and that to require the payment of the public debt in gold alone would impose too heavy a burden. Reference was also made to the attempts to make gold the single standard through international agreements, as witnessed in the discussion of the International Monetary Conference (*see*) in 1867; and it was charged that the recent legislation of the United States had been part of a scheme or conspiracy to bring this about. One member of the minority favored remonetization of silver if it could be attained through international agreement.

In 1877 the Republican platforms of Pennsylvania and many of the western state conventions demanded remonetization, and there was even more general agreement among the Democrats. Congress quickly responded to this pressure and, November 5, 1877, by a vote of 163 to 34, passed the Bland bill (*see*) providing for free and unlimited coinage of silver. There were, however, 92 members not recorded. In the Senate the volume of coinage was limited, and in that form the act was passed, notwithstanding the veto of President Hayes. The final vote in the House was 203 to 72, and in the Senate 46 to 19. As a concession to those who believed that the coinage of silver could be safely undertaken only by joint action with other countries, this statute authorized the President to invite the principal commercial nations to send representatives to a second international monetary conference (*see*).

Period of Repose (1878-1888).—For several years after the passage of the Bland-Allison Act the silver question attracted but little attention. The deliberations of the Monetary Conference were fruitless; the prophecies of disaster to result from the coinage of even a limited amount of silver, proved untrue, and the country as well as the nation's treasury enjoyed prosperity. President Cleveland, elected in 1884, endeavored without success to awaken interest in the folly of continued purchases of silver. But Congress would not desert silver, and in 1886 the passage of a free coinage bill was only narrowly averted in

the House. Silver continued to fall in value; but of more consequence as a factor in giving strength to the silver movement was the continued fall in the price of agricultural staples. Farmers in the South and West who were suffering from the burdens of mortgage indebtedness incurred when prices were higher, generally agreed that the declining returns of agriculture, as measured in money, were due to an insufficiency of monetary medium.

Renewed Agitation (1889-1893).—Influenced doubtless by political motives of expediency, the silver question was not given prominence by either party in the presidential campaign of 1888. And yet no sooner was the new Republican administration installed in power than active interest in the free silver agitation was revived. In November, 1889, a silver convention was held in St. Louis; and in the following month, Windom, Secretary of the Treasury, brought forward a project for the issue of silver certificates against bullion at its market value. Recommendations coming from such a responsible source at the very beginning of a party's accession to power influenced Congress to act. Windom's particular recommendation was set aside in favor of the bill subsequently known as the Sherman Act of 1890 (*see* also TREASURY NOTES). This again was a compromise and did not realize all the hopes of the silver party. In increasing the purchases of silver it meant a partial victory which inspired the party to further activity. The Republican party had now been definitely committed to silver; in the Senate a free coinage bill was passed early in 1891, and again in 1892. In the House, however, there was more opposition and the bill failed by a vote of 136 yeas to 154 nays (July 13, 1892).

Cleveland was again the Democratic candidate for President in 1892; he was known to be opposed to further purchase of silver, but the campaign was contested on the now familiar issue of tariff reform. The Democrats, who were successful, inherited an embarrassed treasury and were soon forced to meet financial difficulties of the gravest nature. International trade and business distrust led to an unprecedented demand for redemption of treasury notes. Although silver advocates argued that redemption of the new notes of 1890 might be made in silver as well as in gold, the administration asserted that in order "to keep the public faith and to preserve the parity between gold and silver," redemption must be made in gold, if so desired. But the gold reserve was perilously near exhaustion. In May, 1893, there was a panic, and Congress was called to meet in special session in August.

Cessation of Silver Coinage (1893).—It was Cleveland's conviction that the first imperative step to check further financial disaster was the repeal of the Sherman Act. Influenced by the commercial and industrial distress

which prevailed throughout the country, the House followed his leadership, but the Senate was more obstinate. Only after two months of debate was repeal achieved. Silver advocates even then surrendered on the pledge that another effort should be made to secure bimetallism through international agreement. The silver party, however, was aroused to bitter exasperation by the administration's policy in selling bonds for gold. Claims of betrayal were freely made. The Republicans were still divided; many countenanced silver in ambiguous terms of bimetallism. A yet larger wing of the Democratic party explicitly demanded free coinage by the United States, without any qualifications or conditions involving action by other countries.

The Republicans in their national convention in 1896 opposed free coinage of silver except by international agreement, but this lack of decisive recognition of silver led to a split in the party. In the Democratic convention the free coinage advocates gained complete control. Moved by the fire and eloquence of a delegate from Nebraska, William J. Bryan, the convention gave to him the presidential nomination in preference to Bland of Missouri, who had championed the cause for twenty years. This unqualified championship of free coinage created divisions within the Democratic party, just as negative action had caused dissension among the Republicans. The Republicans won the election, but as the tariff was once more made the foremost issue in their campaign, their victory did not mean the cessation of the silver contest. Advocates of the gold standard, however, now took the more aggressive stand, and endeavored to secure legislation which would definitely settle the status of silver and gold respectively.

A monetary convention held at Indianapolis in 1897 led to the preparation of a report and bill widely circulated, whereby gold was to be made the sole standard; the coinage of silver dollars (still required when treasury notes of 1890 were redeemed) to cease; and silver dollars to be redeemed in gold. The Republicans gradually were convinced that it was impossible to secure bimetallism by international agreement, and that further efforts in behalf of silver were unpolitic; and consequently in 1900 (March 14) there was passed a Gold Standard Act, based in part on the measure proposed by the Indianapolis convention. Under this act, gold was made the sole standard and the coinage of silver dollars was stopped. It was generally agreed that by this definitive action the silver question was finally disposed of. Revival of business, dating from 1897, and an increased production of gold available for the monetary medium, contributed to this belief.

International Discussion.—What were the principal arguments and forces which controlled the agitation over a period of twenty-five years?

(1) It is to be noted that the special plea for free coinage of silver came at a time when there was a world-wide movement to make a large place for silver under international agreement. By 1865 the gold discoveries in California and Australia had spent their force, and gold ceased to fall in value as measured in silver. The expansion of trade brought about by railway and steamship development necessitated an enlarged medium of currency; and even England was willing to listen to proposals for use of silver. The arguments in favor of international bimetallism are well represented in the writings of Francis A. Walker and S. Dana Horton. Though the effort was unsuccessful, its supporters in dwelling upon its desirability, furnished the free coinage party in the United States with a wealth of argument, although often illogical in its application, to the adoption of bimetallism by one country alone.

Inflation.—(2) A conviction was wide spread that the contraction of the currency at the close of the Civil War was responsible for the fall of prices in this country, and that public interest demanded an increase in the monetary medium in order to counteract this tendency. The greenback movement was the earlier manifestation of this reasoning; when defeated, its advocates willingly turned to silver coinage as a possible agency of relief. It was patriotically declared that the United States could direct economic influences and results by its own individual action; and that it was unnecessary to wait on the action of other nations. England, whose coöperation was held essential by international bimetallists, would never, it was asserted, participate in any agreement for an increase in the world's money; as a creditor nation, it was to her interest that prices should remain low. It was folly to postpone action, for the chains of bondage were forged so much the tighter.

Sentiment.—(3) Associated with this argument for an American policy was the appeal to historical precedent. Silver, it was said, was recognized in the Constitution; the first mint law provided for its coinage. Much sentiment was devoted to the "dollar of our daddies" (*see*).

Crime of '73.—(4) Of minor importance, though undoubtedly of much popular influence, was the claim that demonetization was accomplished in 1873 by underhand methods. This claim was enlarged upon until finally it became common to refer to the "Crime of 1873." It was freely asserted that the framers of the mint act of that year had entered into a conspiracy with creditor capitalists, here and abroad, in order to change the standard of value and thus impose a heavy burden upon the debtor class. For years there was much bickering and dispute over the record of the participants in the legislation of 1873, charges and countercharges being made of inconsis-

teney, ignorance, and deceit. Although investigation shows that there was no deception, and that representatives from silver producing states acquiesced with knowledge of the purport of the act, the charge of conspiracy was readily accepted by large numbers in the South and West, who were struggling against the odds of indebtedness occasioned by the Civil War and the settlement of new lands.

Popular Literature.—(5) In the later years of the controversy a small book written in simple language with striking illustrations, entitled *Coin's Financial School*, by William H. Harvey, had an enormous circulation, and widespread influence. This and a flood of pamphlet literature helped to prepare the way for the dramatic campaign carried on by Bryan in 1896. The advocates of silver dwelt not only upon the wrongs of the people but took the aggressive in a theory of monetary science based upon the simplest form of the quantity theory of money. The steady decline in the production of gold, and the fall in prices gave strong support to such reasoning. From such data advocates of international bimetalism drew their arguments, so that by implication the free silver party greatly strengthened its position.

Sectional Feeling.—(6) The controversy was in a large measure sectional. Silver found its support in the South and West, the section in which farm products predominated, and in which per capita indebtedness was greatest. At heart the East was in favor of the gold standard, though at times eastern states, from motives of political expediency, showed sympathy with the silver advocacy, in their party platforms. In fact, to a large degree, the silver sentiment was sustained by those who believed that the fiscal system of the government was such as to give advantages to the East over the West; and that free silver would aid to restore the balance.

See BLAND-ALLISON SILVER ACT; BULLION; COINAGE AND SPECIE CURRENCY; COINAGE, FREE; COINAGE, SUBSIDIARY; CRIME OF '73; DOLLAR OF OUR DADDIES; GOLD RESERVE; MULTIPLE STANDARD; SEIGNIORAGE; SHERMAN SILVER ACT; SILVER CERTIFICATES; SIXTEEN TO ONE; TRADE DOLLARS.

References: A. B. Hepburn, *Hist. of Coinage and Currency in the U. S.* (1903), 274-319, 363-394; F. W. Taussig, *Silver Situation* (1892); F. A. Walker, *International Bimetalism* (1896); J. L. Laughlin, *History of Bimetalism in the U. S.* (4th ed., 1897); E. B. Andrews, "An Honest Dollar" in *Am. Econ. Assoc., Publications*, 1889; New York Reform Club, *Sound Currency* (1894-1910), I-X; W. H. Harvey, *Coin's Financial School* (1894); First National Silver Convention, *Proceedings*, 1889; W. J. Brynn, *First Battle* (1897); D. R. Dewey, *National Problems* (1907), 76-80, 220-237, 252-276, 314-328.

DAVIS R. DEWEY.

SILVER GRAYS. The name given to Whigs of the Fillmore stripe in New York in 1850, as distinguished henceforth from Seward Whigs. Fillmore, as President, had approved the Compromise of 1850, which Seward opposed in the Senate, desiring California's admission as a free State without compacts concerning slavery. At the Whig convention of September, in Syracuse, resolutions were adopted which, though loyally expressed toward the President, approved the course which Seward had taken; whereupon forty voters in the minority left the convention and held a separate one at Utica. These seceders nominated the same state ticket, with Washington Hunt for governor. See WHIG PARTY. **Reference:** J. Schouler, *Hist. of U. S.* (1891), V, 208. J. S.

SILVER PARTY. In 1896 there were several parties in existence in addition to the well-known and long-established parties. Among these was the Silver party, largely made up of Silver Republicans (*see*). The party held a convention at St. Louis, Missouri, July 22, 1896, and nominated William J. Bryan and Arthur Sewall, the candidates put forward by the Democrats in their convention of two weeks before. They demanded the unrestricted coinage of silver and gold at the ratio of 16 to 1. See DEMOCRATIC PARTY; REPUBLICAN PARTY; SILVER COINAGE CONTROVERSY. A. C. McL.

SILVER REPUBLICANS. Those Republicans who in 1896 followed Senator Teller and other western leaders in opposition to the gold policy of the main body of the party. They supported Mr. Bryan for the presidency and, partly at least, were absorbed by the Democratic party. See DEMOCRATIC PARTY; REPUBLICAN PARTY; SILVER COINAGE CONTROVERSY; SILVER PARTY; TELLER RESOLUTIONS. **Reference:** J. A. Woodburn, *Pol. Parties and Party Problems* (1903), 115-132. A. C. McL.

SINEWS OF WAR. A phrase used in its political signification to denote the pecuniary resources furnished, usually by the business magnates, to the campaign committees to finance a political campaign. O. C. H.

SINGLE STANDARD. See BIMETALLISM; MONOMETALLISM; STANDARD MONEY.

SINGLE TAX. See TAX, SINGLE.

SINKING FUND. A sinking fund as originally devised is a portion of a public debt purchased by the government responsible for the debt, and set aside as a separate fund to increase by annual interest increments, and finally to be applied to the extinction of the debt. Originally it was supposed that there was a direct financial profit in the use of this

device, so that indebtedness might be safely incurred. A small percentage of debt owned by the government would, it was argued, through the operation of compound interest, in the course of time equal the original principal of the debt. The fallacy of the argument lay in neglect to recognize that interest on the debt, whether held by individual investors or by the government treasury, must be met by taxation; and that as long as the debt was in existence the public was burdened. In other words, a sinking fund has no power of independent production of wealth.

While it is now agreed that debt can be extinguished only by taxation, it is generally held to be expedient, when creating a debt, to establish a fund which shall be inviolably pledged for the redemption of the debt. Accordingly, it is common practice to provide that a certain percentage of a debt should be annually purchased; and that in addition to this the interest on so much of the debt as has been heretofore redeemed shall be pledged. The term "sinking fund" may also be applied in a still freer use to any fund which is created for the extinction of debt.

The sinking fund was first introduced into the English financial system, by Pitt, under the influence of the writings of Robert Hamilton. Alexander Hamilton, first Secretary of the Treasury, adopted this precedent in a modified form, in his recommendations of the settlement of public indebtedness in 1790, and Congress followed his advice. Its use was also authorized in connection with the loans of the Civil War, by the requirement that one per cent of the public debt be purchased annually. These provisions, however, were disregarded, and debt was extinguished according to the size of the surplus and the state of the bond market. Moreover, Secretary McCullough, when bonds were purchased, cancelled the obligations immediately without resort to the maintenance of a separate fund, and this method was authorized by the funding act of 1870. Notwithstanding the adoption of extinction of indebtedness by cancellation rather than by the establishment of a separate fund, federal statutes and treasury practice still refer to sinking fund requirements.

The use of distinct sinking funds has been often adopted by states and municipalities in the management of local financial systems. In some states its use is imposed by constitutional requirements. The indebtedness purchased, however, for such funds is not always the same security as that of the debt to be extinguished, but often consists of other securities issued by the given state or city. As new indebtedness is constantly created, this opportunity is always open; and the government concerned may thus buy its own new obligations to satisfy its requirements of the sinking fund. In recent years the use of serial bonds has been advocated as a substitute. By this system the

bonds are issued with varying dates of maturity, so that in each year a certain number will be redeemed without the contingency of the payment of a premium.

See DEBT, PUBLIC, ADMINISTRATION OF; DEBT, PUBLIC, FUNDING OF.

References: C. C. Plehn, *Introduction to Public Finance* (1909), 406-414; E. A. Ross, "Sinking Fund" in Amer. Econ. Assoc., *Publications*, VII (1892), 311-416.

DAVIS R. DEWEY.

SIXTEEN TO ONE. This phrase refers to the ratio between silver and gold which the advocates of silver during the controversy 1875 to 1900, desired to establish in a bimetallic standard. It was quite generally believed that this was the ratio adopted under the mint act of 1793, and that a return to complete bimetallism would be a patriotic endorsement of the wisdom of the first statesmen of the Republic. The original ratio, however, was 15 to 1, the change to 16 to 1 being brought about by the acts of 1834 and 1837. See SILVER COINAGE CONTROVERSY. D. R. D.

SIXTEENTH AMENDMENT. On July 31, 1909, an amendment to the Constitution of the United States, having been passed by the requisite two-thirds vote of both houses of Congress, was deposited in the office of the Secretary of State. It is worded as follows:

The Congress shall have power to lay and collect taxes on incomes, from whatever source derived, without apportionment among the several States and without regard to any census or enumeration.

The purpose of this amendment was to avoid the necessity of distributing direct taxes among the states in accordance with their respective populations. There has been some objection to the form of the amendment on the ground that the words "from whatever source derived" might be construed to empower the United States government to tax the bonds of states and municipalities, and other properties of that kind, and thus greatly increase the possibility of concentration of power and authority in the National Government. Feb. 3, 1913, Wyoming and Delaware ratified the Amendment, making one more than the necessary three-fourths. It was declared in force Feb. 25, 1913. See TAX, INCOME; TAXATION; TAXES, DIRECT.

A. C. McL.

SLAUGHTER HOUSE CASES. The Slaughter House Cases (16 Wallace 36) are a group of cases decided by the United States Supreme Court in 1873, which obtained their name from the fact that they involved the constitutionality of a law of the state of Louisiana which chartered a certain company and gave to it exclusive rights to establish and maintain stockyards and slaughter houses for the city of New Orleans, and provided that all animals intended for food should be slaughtered

therein. This law was attacked upon the grounds that, in violation of the Thirteenth Amendment (*see*) of the Constitution, it created an involuntary servitude of those who were impelled to make use of the establishments of the company; and that, in violation of the Fourteenth Amendment (*see*), it denied to them the equal protection of the laws, deprived them of property without due process of law (*see* DUE PROCESS OF LAW), and also abridged the privileges and immunities of citizens of the United States. The first of these claims was easily disposed of, the court, though admitting that "servitude" (*see*) has a broader meaning than "slavery," declined to extend its meaning so as to include the obligations created by such an administrative regulation as was here involved. The claims that equal protection of the laws was denied (*see* EQUALITY BEFORE THE LAW), and that property was taken without due process of law, were dismissed with slight argument, the court observing that they had not, indeed, been much pressed by the plaintiffs. The really important question in the cases was whether, by the act of Louisiana, any privileges or immunities of citizens of the United States were abridged, for if it should be held that such rights as were involved were federal ones, it would follow that practically the entire body of the civil rights of all citizens would be transferred to the protection of the Federal Government, and that, under the operation of the enforcement clause of the Fourteenth Amendment, this entire domain of private law, previously belonging exclusively to the states, could be brought within the regulative control and legislative definition of Congress. It is not surprising, therefore, that Justice Miller, who rendered the opinion for the majority of the court, should have declared that "No questions so far reaching and pervading in their consequences, so profoundly interesting to the people of this country, and so important in their bearing upon the relations of the United States and of the several States to each other, and to the citizens of the States and of the United States, have been before this court during the official life of any of its members." The court, in result, found that this great change in the character of our constitutional system was not the intention of the Fourteenth Amendment. It was the purpose and effect of that addition to the Constitution, the court held, to make national citizenship primary, but to preserve that citizenship distinct from state citizenship; and the privileges and immunities which it was declared might not be abridged by the states were declared to be only those which are peculiar to, and arise distinctly out of, the status of federal citizenship. These rights had indeed been constitutionally secured from state abridgment since the beginning of the government, and, therefore, as to this provision, the Fourteenth Amendment was given only a declara-

tory force. The court declared it was obliged to hold that, notwithstanding the pressure of excited feeling growing out of the Civil War, "Our statesmen have still believed that the existence of the States with powers for domestic and local government, including the regulation of civil rights, the rights of person and of property, was essential to the perfect working of our complex form of government, though they have thought proper to impose additional limitations on the States, and to confer additional power on that of the Nation." See PRIVILEGES AND IMMUNITIES; UNITED STATES AS A FEDERAL STATE; RECONSTRUCTION. References: W. A. Dunning, *Reconstruction, Political and Economic* (1907), 260; W. W. Willoughby, *Constitutional Law of U. S.* (1910), I, 177-183. W. W. WILLOUGHBY.

SLAVE TRADE. The trade in African slaves, practiced from antiquity by many nations, was revived by the Portuguese before the discovery of America; introduced into the Spanish colonies very soon after their foundation; taken up by the English in traffic with the West Indies; transferred to the continent by the Dutch in 1619; and thereafter practiced with the English colonies and later in the United States down to 1861. The principal source of supply was always the west coast of Africa, though large parts of the interior were bestirred by slave raids, and members of many tribes were carried down to the coast. The trade was carried on in the small vessels of the period often with great inhumanity; so that the loss of a fourth of the cargo of healthy slaves was not uncommon. By the Asiento treaty (*see*), concluded at Madrid on March 26, 1713, the British for about thirty years had a monopoly of the trade with the Spanish colonies.

Meanwhile objections to the trade were put forward by several of the English colonies, on the ground that it brought in a dangerous element; other colonies laid a tax on importations. The British Government regularly disallowed all acts of limitations on a trade very profitable to British merchants, particularly those of Bristol. In the Association of 1774 the colonists boycotted the slave trade and when the war broke out nearly all of them forbade the trade outright.

The Federal Convention of 1787 gave Congress general authority to regulate external trade, but excepted for twenty years the slave trade in states which permitted it (Art. I, Sec. ix, ¶ 1). By acts of 1794 and later, Congress legislated on the conduct of the trade; and in 1807 absolutely prohibited the introduction of slaves in the United States after Jan. 1, 1808. As a matter of fact it was already illegal in all the states except Georgia and South Carolina. The penalties of the act were not sufficient and it allowed slaves captured under way to be brought here and sold for ben-

effit of the government. Therefore in 1819 the slave trade was declared to be piracy (afterward held not to be piracy in the international sense, but subject to the penalties of piracy in the United States courts). By an act of 1820 the system was strengthened and provision was made for carrying captured slaves back to Africa in connection with the colonization movement (*see* COLONIZATION OF NEGROES). No limitation was ever put by Congress on the interstate slave trade, except in the District of Columbia by the act of 1850 (*see* COMPROMISE OF 1850).

No further statutes were passed, but in 1842 by the so-called cruising convention (*see*), the United States agreed to furnish part of the joint fleet to coöperate with Great Britain in dealing with the trade on the African coast. Neither the statutes nor the treaties were sufficiently carried out. Cargoes of slaves were landed in the United States probably every year; and though some vessels were captured, not till 1862 was any slaver executed for his crime. Toward 1860 there was a movement for reopening the trade to the United States. The Civil War immediately ended the illicit slave trade; and by treaties with Great Britain the United States joined in stopping what has become throughout the western world and Africa a prohibited and outlawed trade.

See SLAVERY AS A LABOR SYSTEM; SLAVERY CONTROVERSY.

References: W. E. B. Dubois, *Suppression of the African Slave Trade* (1896); H. C. Carey, *Slave Trade* (1853); A. B. Hart, *Slavery and Abolition* (1906), ch. xix; W. H. Collins, *Domestic Slave Trade* (1904).

ALBERT BUSHNELL HART.

SLAVERY AS A LABOR SYSTEM. The economic value of slave labor can best be studied in the experience of the United States of America. In the southern colonies, soil and climate were favorable to the production of certain great staples—tobacco, rice, cotton and sugar, crops which required a large amount of low-grade labor. The settlers found the tillage of highly nitrogenous and malarial soils under a torrid sun distasteful, even dangerous, the native races were non-industrial, and free laborers were not available in sufficient numbers. The slave traders of the Gold Coast, however, furnished an apparently inexhaustible supply of laborers inured to tropic climates, and capable of such unintelligent muscular exertion as was required for one-crop agriculture. Slavery, originally adopted as a temporary necessity, was accepted as a permanent policy, once its profit-producing quality came to be realized. Slave labor was entitled to no recompense beyond mere sustenance, the cost of which was slight, and the whole surplus product accrued to the owner of the means of production.

Advantages.—The peculiar advantage of the slave owner was demonstrated in the rapid

exploitation of the south Atlantic and Gulf states by comparison with the relatively slow progress of the frontier across the Northwest Territory. The pioneer farmer, with his quarter section of land and his "hired man," was usually able to maintain his family and accumulate a moderate property; but the planter who brought a gang of slaves to the Tombigbee or Yazoo River managed to clear the forest, plant the stump-encumbered fields and ship a boat-load of cotton to market within two years. Undisputed control of a body of laborers that might be shifted at will from one employment to another was a factor of prime importance in the production of cotton, sugar and rice. The working force might be brought to bear on the several processes in turn. Slaves were unintelligent and prone to shirk; but the range of their capacities was sufficient for the needs of the plantation, and overseers and drivers were relied upon to keep them at work.

Slave labor was most remunerative on the great plantation and under wholesale methods of production. Since one overseer could direct from fifty to one hundred slaves, and one slave could work five acres of cotton, the ideal ratio was one overseer to one hundred slaves and five hundred acres of tilled land. Moreover, the possession of rice mill, cotton gin or sugar-house, together with superior transportation facilities, gave the wealthy planter an advantage which rendered it difficult for the small farmer to sell in the same market. The "poor whites" were forced to sell their lands and retreat to the mountains or the pine barrens. By 1860 the typical agricultural unit of the Gulf states was the great plantation, peopled by slaves and run by an overseer responsible to a landowner who was often an absentee. That the system was a profitable one for the planters is evident from the rapid increase of the per capita wealth (including slaves) of the south central section.

Economic Disadvantages.—By 1840, the disadvantages of slavery were becoming painfully apparent. Slave labor was reluctant, unskillful and wanting in versatility, because, working under compulsion and with no hope of betterment, the slave felt little inducement to put forth energy or intelligence. Absence of responsibility resulted in incorrigible carelessness, so that the maltreatment of draft animals, the breakage of tools, the waste of materials, made up a considerable element in the cost of carrying on agriculture by slave labor. Machinery and high-grade tools could not safely be entrusted to slaves. The acreage value of farm implements in the South in 1860 was less than half that in the northern states, and the statistics of live stock show a like disparity. Olmsted on a careful computation came to the conclusion that the ordinary achievement of one hired laborer was equivalent to that of four slaves. In cost to the employer, he found little difference between

the bondman and the free. In New York, a farm laborer might be had for \$110 a year with board, and in Virginia the customary hire of a slave was \$100 with board and clothes.

Effect on Industrial Development.—The non-economic quality of slave labor became apparent, first in the south Atlantic states, later on the Gulf coast and finally in Texas, by the slow but sure exhaustion of the soil. Under the slave régime, there was no attempt at conservation, for rotation of crops, contour plowing, and scientific fertilization were alike impracticable. The exploitation of labor was no less evident. The reputation of an overseer, his position and his salary were determined by his crop showing, and he was tempted to drive his working force to the limit of endurance, assured that the losses from sickness and death would be made good by the purchase of new slaves.

Finally the lack of skill and versatility in slave labor condemned the South to extensive agriculture and the slipshod methods of the frontier. Diversification of crops was unprofitable, by-industries were neglected, even the effort to raise sufficient food for slave rations was abandoned. Fresh slaves from Virginia and Kentucky, dry goods from New Eng-

land, farm implements from Pennsylvania, flour and bacon from the commonwealths beyond the Ohio, drained the financial resources of the South, and there was little surplus to invest in railroads, mines or manufactures. Before the collapse of the slave régime, it was evident to disinterested observers that the prosperity of the slave states was fictitious. Many estates were heavily mortgaged, and the standard of living both for planters and poor whites was far inferior to that of corresponding classes in the free states.

See **ECONOMIC HISTORY OF THE UNITED STATES; LABOR AND WAGES; PEONAGE; SLAVERY CONTROVERSY; SOUTH.**

References: U. B. Phillips, "Plantation and Frontier, 1649-1863," in *Documentary Hist. of Am. Society* (1910), I, II; J. D. B. DeBow, *Industrial Resources of the Southern and Western States* (1852); Robert Russell, *North America, Its Agriculture and Climate* (1857); F. L. Olmsted, *Journeys and Explorations in the Cotton Kingdom* (1861), *Seaboard Slave States* (1856); G. P. Kettell, *Southern Wealth and Northern Profits* (1860); W. E. B. Du Bois, "Negro Farmer" in Bureau of Commerce and Labor, *Bulletin*, No. 8, 1903.

KATHERINE COMAN.

SLAVERY CONTROVERSY

Genesis of American Slavery.—Slavery is older than history, precedes all forms of organized government, and is associated with the earliest ideas of property. Conflicts between the master and the bondman, and also between the slaveholder and the freeman who has no slaves, have proceeded unceasingly for ages. When the first settlers landed in Jamestown chattel slavery had practically ceased in England, and even villeinage had almost died out. The colonists brought with them that equality before the law which was the greatest contribution of the English race to law and government up to that time.

To these great principles there were from the beginning exceptions. (1) Life convicts were practically slaves for life and had the slave's experiences. (2) Slavery of infidels was still acknowledged as proper among Christian powers, and the American colonists North and South, speedily began to make captives of their Indian enemies and to buy and sell them as commodities. (3) A few negroes, commonly called blackamoors, were held as slaves in England. (4) In 1619 the first purchase of negro slaves was made by the Virginians.

With the single but vital exception that the children of indentured and convict servants were free, the curse of slavery also rested upon thousands of white persons in the colonies. Either as a penalty for crime, or by their ac-

ceptance of a formal written obligation or indenture (*see*), the service of these people was delivered over to masters and mistresses for a term of years or for life. The legislation of the colonies authorized for such persons whippings and brandings and recovery by force if they ran away.

Indian slavery was everywhere practiced, though limited by the Indians in dying in bondage without leaving a sufficient offspring; and by danger of furnishing examples to powerful tribes like the Six Nations, who knew how to make slaves of their white prisoners. After the Revolution the slavery of Indians who had no negro blood was considered illegal and became very uncommon.

Colonial Anti-Slavery.—Indentured service and Indian slavery gave way before the growth of negro slavery. Alongside the desire to make a profit out of the slaves' labor was a dim idea of advancing Christianity by bringing these heathen under its influence. The contrast early attracted the attention of humane colonists, and the earliest protest against negro slavery was that of William Usselinx in his plan for a Swedish colony in 1624. The Massachusetts Body of Liberties of 1641 forbade "bond slaverie, villeinage or Captivitie amongst us unless it be lawfull Captives taken in just warres and such strangers as willingly selle themselves or are sold to us." There was a

similar Rhode Island statute in 1652. From the first, therefore, some colonists felt a dislike of slavery and particularly of African slavery, and made efforts to impede it by law. In Georgia, from 1732 to 1749, slavery was prohibited; Oglethorpe said it was against the gospel, as well as the fundamental law of England. Nevertheless slavery everywhere continued and was legal in every colony at the time of the Revolution.

Where was the church in this controversy as to the relations of immortal men? One religious body, the Quakers, beginning with the famous Germantown Protest of 1688, did gradually put itself on record as opposed to slavery, and some Congregationalists refused fellowship to slaveholders; but the great national churches, the Congregational, the Protestant Episcopal, Catholic, Presbyterian, Dutch and German churches accepted the system as they found it; and no powerful organized church, except the Northern Methodists, held slaveholding inconsistent with its rules.

In the nature of things, however, slavery aroused from the beginning the protest of reformers, most of whom were ministers of the gospel. Roger Williams, in 1637, vainly objected to the enslavement of the Pequots. John Eliot and Cotton Mather publicly urged the humane treatment of slaves. Richard Baxter, perhaps the most widely read English theologian of his time, held that slaves "are reasonable creatures as well as you, and born with us with natural liberty." Samuel Sewall, parson and judge, in 1700 in his tract, *The Selling of Joseph*, declared that "originally and naturally there is no such thing as slavery." In 1701 the town of Boston instructed its representatives to favor putting "a period to negroes being slaves." Later the Yankee parson, Nathaniel Appleton, of Cambridge, the Quakers, Ralph Sandiford and Benjamin Lay, the French Huguenot, Benezet, all engaged in a propaganda against slavery; and the gentle Quaker, John Woolman, traveled far and wide urging his fellow religionists to emancipate their slaves.

Objections to Slavery.—(1) Down to the Revolution the argument against slavery that was most pressed was its opposition to the spirit of the gospel, its oppression of the weak. The Revolution emphasized an argument (not overlooked before) that slavery was contrary to natural political rights.

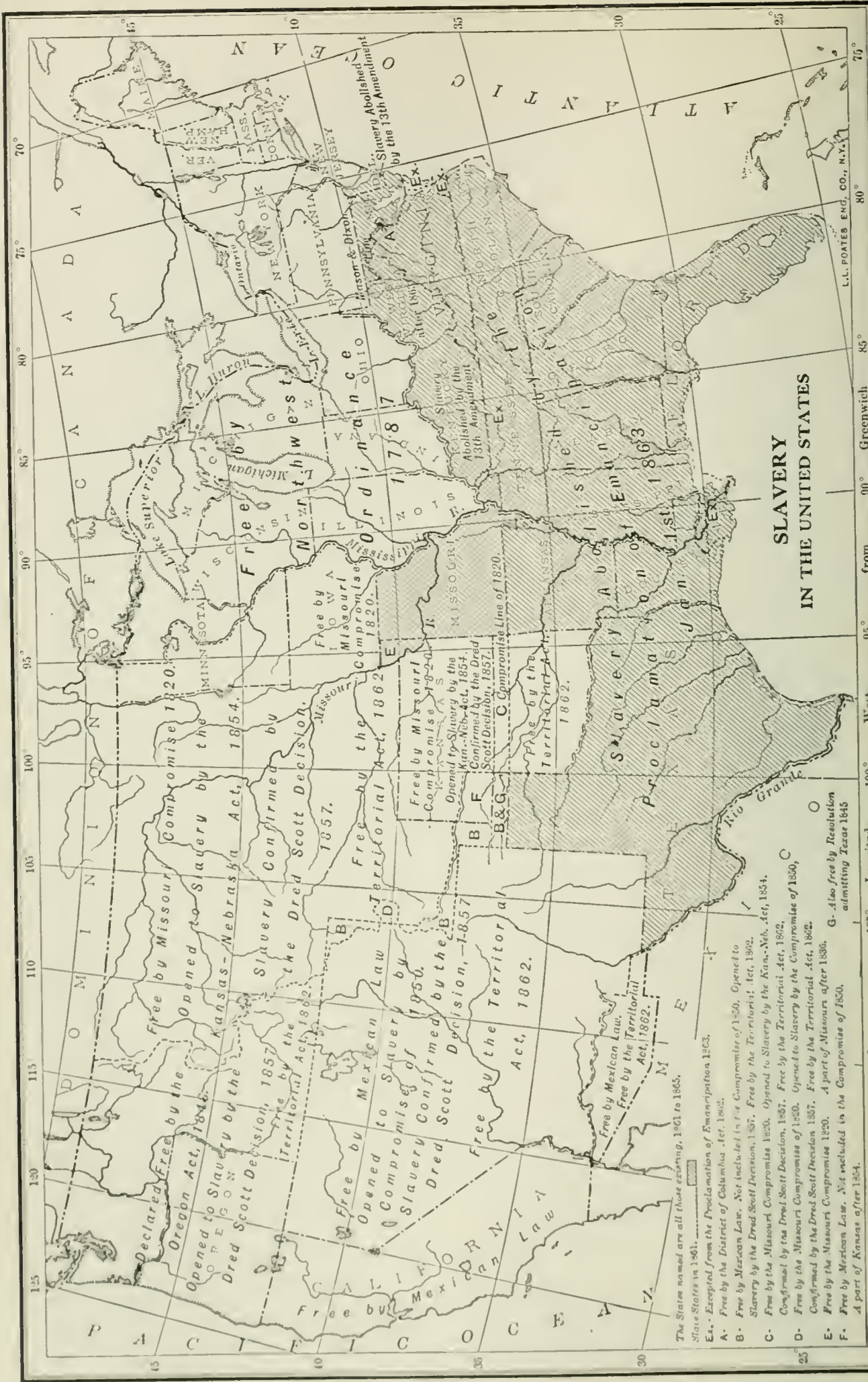
(2) The success of the Revolution, the graving in the minds of Americans of the Declaration of Independence (*see*) with its assertion that "all men are created equal," and they are endowed with inalienable rights, life, liberty and the pursuit of happiness, forever strengthened this political argument, which was made the stronger by the fact that in several of the colonies a free negro stood on substantially the same basis as a free white man, and could exercise the suffrage (*see*).

(3) Another objection was the social and economical wastefulness of slavery, its culture of indifference, indolence, and disregard of others' interests. This economic argument had great weight in communities where slaves were few, and the system could be choked out without serious disturbance. Hence, during, and immediately after, the Revolution, came a period of emancipation by the northern states, mostly a gradual process (*see* EMANCIPATION BY STATES) which by 1804 had committed every community north of Maryland to the principle of no slavery. Those acts were greatly strengthened by the federal Ordinance of 1787, establishing gradual emancipation for the Northwest Territory, an act reaffirmed by the Federal Congress in 1789.

Eighteenth Century Societies.—These state enactments were urged by, and in some cases secured by formal organizations of opponents to slavery. Long before the Revolution, several of the colonies tried to stop the slave trade, though it is hard to understand the efforts to set up a moral distinction between slave trading and slave holding; if either was right or allowable the other was; if either was cruel, unchristian and hurtful to the community, the other was. In 1775 the anti-slavery people of Pennsylvania formed the first society; for a time it was inactive, but the agitators by petitions and by influence in the legislature, sought first to protect free people of color, and then to bring about emancipation. The Pennsylvania emancipation act of 1780 was in part due to their efforts; by 1792 every state from Virginia northward had such a society. Some of them petitioned Congress with regard to slavery; they put a pressure on their legislatures to enforce the emancipation acts. In 1794 began the American Convention (*see*), an annual meeting of abolitionists to consult and plan attacks on slavery in every form.

Anti-Slavery from 1789 to 1829.—Contrary to a general belief in later times, this organized protest never ceased. From 1794 to 1829 the American Convention met twenty-four times, and more than one hundred local societies were at one time or another in existence. It was to a large degree a southern movement extending from North Carolina to New York with a few New England societies. The abolitionists of that time used all the forms of appeal later employed by abolitionists, printed statements, petitions, newspapers; they saw the significance of the District of Columbia in the controversy; and stood against the spread of slavery into new territory.

The anti-slavery movement in this period was greatly aided by a fourth main argument against slavery—its cruelty. That phase attracted little attention in the frankly inhuman seventeenth and eighteenth centuries, when the most enlightened communities habitually allowed violence, and abuse of children, apprentices, lunatics, convicts, prisoners for



The States named are all those existing, 1861 to 1865.
Slave States in 1861.
Ea. - Excepted from the Proclamation of Emancipation 1863.
A. - Free by the District of Columbia Act, 1802.
B. - Free by Mexican Law. Not included in the Compromise of 1850. Opened to Slavery by the Territorial Act, 1892.
C. - Free by the Missouri Compromise 1820. Opened to Slavery by the Kansas-Nebraska Act, 1854.
D. - Free by the Dred Scott Decision, 1857. Free by the Territorial Act, 1852.
E. - Free by the Missouri Compromise of 1850. Opened to Slavery by the Compromise of 1850.
F. - Free by the Dred Scott Decision 1857. Free by the Territorial Act, 1862.
G. - Also free by Resolution admitting Texas 1845.
A part of Kansas after 1854.

debt, servants and slaves. When about the beginning of the nineteenth century a wave of humanitarianism rolled over the United States, slavery was one of the many legalized forms of denial of equality; and a favorite argument against it was that it not only bruised the slave but destroyed the moral feeling of the master.

Decline of Anti-Slavery.—Nevertheless, in 1829, the old anti-slavery movement had spent its strength, and most of the societies had died out. The principal agitator then at work was Benjamin Lundy, who traveled widely through the West and South and during the twenties issued a little paper, the *Genius of Universal Emancipation*. The main reason for this decay was that the movement was strongest in states in which the cotton gin made possible a supply of the staple; and the sale of slaves southward from the border states involved the whole South in the new cotton industry, in which crude labor could be profitably employed in large gangs. The economic argument for a time worked for slavery, opposition to which was held to be opposition to the section's vital industry. The earlier rebukes by local conferences of churches, especially the Methodist, were heard no longer. The interest of the southern opponents of slavery was in part drawn into the American Colonization Society (*see* COLONIZATION OF NEGROES). Meanwhile the slave-holding states of Kentucky, Tennessee, Louisiana, Mississippi and Alabama, had been admitted and there were evidences of an intention to annex Texas.

On the other hand the anti-slavery cause from 1800 to 1830 registered some potent victories. The slave trade was prohibited in 1807. The territory of Indiana failed to get from Congress a repeal of the Northwest Ordinance, and the effort to change the constitution of Illinois so as to allow slavery broke down in 1823. By the Missouri Compromise (*see*) in 1820, Congress prohibited slavery in a second great territorial area.

Nevertheless the movement seemed to lose vitality. From 1637 to 1830 an anti-slavery movement had been going on, including many southern ministers and public men—among them Washington, Jefferson and Madison. Slavery had been held up to the world as contrary to Christianity, to natural right, to humanity, and to the real economic interest of the slave-holding section. Yet slavery had never seemed so strong. The slaves increased from 697,624 in 1790, to 2,009,043 in 1830. Cotton ruled in high places; every President of the United States from 1789 to 1861 was a slaveholder or a sympathizer with slaveholders. The institution was buttressed by the great principle of state rights (*see*), the privilege of every organized community to manage its own concerns.

Reasons for Renewed Agitation.—The final and effective anti-slavery movement began in

1831 with the publication by William Lloyd Garrison of the first number of the *Liberator*. In many ways this propaganda differed from all previous assaults. (1) Slavery was now almost extinguished north of Mason and Dixon's Line and the Ohio River. No northern community had anything to gain from southern slave labor, except as it produced the staple for a growing cotton manufacture in the New England and middle states, and as the South as a whole was a customer for northern food stuffs and other products. (2) It was a period of "causes"; anti-slavery was one of many movements of the time. Societies, conventions and newspaper organs carried on popular agitation in behalf of temperance, of woman's rights, of humane treatment of the insane, of home and foreign missions, of social experiments. (3) It was also a period of glorious belief in the capacities of mankind; the suffrage was widening, the cities enlarging, immigrants coming; the air was full of hope and exultation. (4) Between 1833 and 1840 the British abolitionists forced their government to set free the slaves in the West Indies (with due compensation to the owners), and in 1848 France followed this example, thus throwing upon the United States the responsibility, along with Spain and Brazil, of maintaining a discredited system. (5) The movement now had champions of greater weight than ever before, including relentless journalists like Garrison; converted slaveholders like James G. Birney; poets like Whittier and Lowell; novelists like Mrs. Stowe; statesmen like John Quincy Adams, Chase, Seward and Abraham Lincoln. (6) These irrepressible opponents of slavery were confined within the same Federal Union with equally courageous and forceful men like John C. Calhoun, Jefferson Davis and Alexander H. Stephens; for the first time the friends of slavery rallied to an active propaganda on behalf of the institution.

Political Anti-Slavery.—Amid this new distribution of conditions and forces there arose a new issue, no longer whether slavery should continue where it existed, but whether it should extend into broader regions; and that was an issue which the Federal Government had to decide. For ten years the anti-slavery people and their opponents engaged in an uproar of contention in public meetings, in the press, in the halls of Congress. After a vain effort by "gag resolutions" (*see*) to prevent discussion, on the ground that slavery was too delicate to be brought in question, the two sides locked horns over the main issue whether slavery was or was not a Christian, enlightening and enriching institution which ought to be enlarged. In this struggle the anti-slavery people had the advantage of the pens of most of the most brilliant writers in American literature, but that had no effect upon those people of the southern states who alone possessed legal power to do away with slavery.

Hence from 1840 to 1852 the movement took on a political shape, with national tickets and campaigns. The Abolitionists, so-called, were never more than a few score thousand; but the anti-slavery people who disliked slavery and were unwilling that it should spread, grew to the millions. The annexation of Texas brought out a considerable cohort of frank anti-slavery men. The annexation of New Mexico and California increased the number until, in 1846, appeared an anti-slavery majority in the national House, and the matter was with difficulty adjusted for the time by the Compromise of 1850 (*see*).

Four years later the Kansas-Nebraska Act precipitated the formation of an out and out anti-slavery party which gave itself the name of the Republican. It included uncompromising Abolitionists like Sumner, and Benjamin Wade, and Salmon P. Chase; moderate anti-slavery men like Seward and Cameron; men of little conviction on the subject, such as Banks and Gideon Welles; but they all united on the platform that slavery must stop where it was. This meant no more annexations of potential slave territory, no more slave-holding states; the inevitable result must be the extinction of slavery by the wearing out of the lands upon which it was settled.

Methods of Agitation.—The anti-slavery movement was only a part of a general humanitarian agitation which was sweeping over the United States and western Europe; and in its organization and methods, it was very like the contemporary temperance, woman suffrage, prison reform, and socialistic propaganda of the time. The old system of state societies was revived or extended. A few such societies like that of Pennsylvania had not disbanded. Then, in 1833 was formed the American Anti-Slavery Society, which was the general clearing house of the movement. Its annual meetings were large and enthusiastic. In 1840 the Abolitionists boasted of 200,000 members in the various societies, most of them affiliated with this national organization. The society was then split, chiefly because of the radical views of Garrison and his immediate friends and followers on other than slavery questions, and a parallel society, the American and Foreign Anti-Slavery Society was formed with the result that neither of them ever had anything like the strength and influence of the parent society.

In several respects, the Abolitionists offended the community in which they lived: they allowed and encouraged women to take part in their meetings; they brought negroes upon the platform; they spoke with great freedom and disfavor of all slaveholders; they published in almanacs and in the issues of their numerous papers, rude woodcuts showing negroes undergoing cruelty and torture; they openly defied the laws for the recovery of fugitive slaves. Hence, they have then and

since been accused of needlessly arousing the resentment and opposition of the South, and have even been held responsible for the severe laws passed in some of the southern states against offences by slaves. In this they simply took advantage of the fact that they lived in states in which it was neither legally nor morally wrong to denounce slavery; and they held that the reason their action seemed so unseemly was that slavery was unseemly, that it was contrary to the principles of free government to have a system of personal relations which was so delicate that it could not be discussed even a thousand miles away.

The Abolitionists had the great advantage of the literary skill of many of the foremost American writers of the time; Whittier, Longfellow, Lowell, Emerson, and many lesser writers were engaged in the crusade; and they reached a large constituency of readers who did not attend abolitionist meetings.

Triumph of Anti-Slavery.—When the Civil War began in 1861 it at once started up an aggressive movement which never ceased till its end was reached; anti-slavery men, indifferent men, and pro-slavery men joined the array. Though in July, 1861, Congress disavowed any intention to destroy slavery, war was certain to break it in pieces. The old abolitionism was submerged in the larger movement, and had little immediate influence on the series of dramatic measures by which, in the course of 1862, Congress put an end to slavery in the District of Columbia, prohibited territorial slavery, practically broke up the return of fugitive slaves in the loyal states, and decreed a confiscation of slaves that were used against the government or the property of enemies of the government. When the President, by his final Emancipation Proclamation of January 1, 1863, declared slavery at an end within the military lines of the Confederacy, the whole North practically became abolitionist, because it was clear that if the North was successful slavery would infallibly cease. By the Thirteenth Amendment (*see*), 1865, slavery was constitutionally prohibited.

However little part the abolitionists took in this climax of measures, they did prepare the way by their long insistence that slavery was out of accord with the genius of a free government. They emphasized and exploited the cruelties of the system; they minimized the good relations between masters and slaves; they were unreasonable, shrill and indiscriminating; but they had the great world on their side. Their propaganda finally reached the northern laborer, who felt that slavery somehow degraded his position. Without much knowing the negro, or making much allowance for the difficulties of the master, the anti-slavery people eventually convinced the country in the language of the man most eminent among them "that the nation cannot endure half free and half slave."

SLAVERY, LEGAL DISCUSSION OF—SLEEPING CARS

See ABOLITIONISTS; COMPROMISE OF 1850; CONSTITUTION OF THE U. S., COMPROMISES OF; EMANCIPATION BY STATES; EMANCIPATION PROCLAMATION; FUGITIVE SLAVES; GOVERNMENT, THEORY OF; HIGHER LAW; KANSAS-NEBRASKA BILL; KANSAS STRUGGLE; LIBERTY, CIVIL; MISSOURI COMPROMISE; NATURAL RIGHTS; NEGRO PROBLEM; PERSONAL LIBERTY LAWS; PRO-SLAVERY.

References: M. E. Locke, *Anti-Slavery in America* (1901); Alice D. Adams, *Neglected Period of Anti-Slavery* (1908); Marion G. McDougall, *Fugitive Slaves* (1908); A. B. Hart, *Slavery and Abolition* (1906); T. C. Smith, *Parties and Slavery* (1906); W. E. B. Du Bois, *Suppression of the African Slave Trade* (1896), *Select Bibliography of the Am. Negro* (1901); W. H. Collins, *Domestic Slave Trade* (1904); J. E. Cutler, *Lynch-Law* (1905); A. P. C. Griffin, *Select List of References on the Negro Question* (1903); Channing, Hart, and Turner, *Guide to Am. Hist.* (1913), §§ 165, 180, 197, 202, 209-212, 223, 240; also lives of anti-slavery men and women.

ALBERT BUSHNELL HART.

SLAVERY, LEGAL DISCUSSION OF. Slavery in a proper sense of the term, implying absolute and unlimited power given to one person over the life and fortune of another, had already at the time of the independence of the United States been declared in England to be contrary to law. It was not formally abolished in England, however, until 1833. In some of the colonies African slavery existed under the authority of the British Government. Its continued existence was countenanced in guarded provisions of the Federal Constitution relating: (1) to the basis of representation in Congress (Art. I, Sec. ii, ¶ 3); (2) as to "migration or importation of such persons as any of the states now existing shall think proper to admit" (Art. I, Sec. ix, ¶ 1); (3) for the return by one state to another of persons held to service or labor escaping from the latter (Art. IV, Sec. ii, ¶ 3). Even in states in which such slavery was recognized the rights of the master were not regarded as absolute. He was entitled to the services of the slave and to the control of his liberty and property, but might be punished for crimes committed against him. The slave, however, had no standing in the courts, although he was subject to punishment under the criminal law. In 1865, by amendment to the Federal Constitution, slavery was prohibited within the United States and all places subject to its jurisdiction (see THIRTEENTH AMENDMENT). Within a few years after the adoption of the Constitution Congress had legislated with reference to the suppression of the slave trade (Acts of 1794, 1800, 1807, 1818, 1819, and 1820). In various states in which slavery was recognized the slave trade was regulated or prohibited. In other states by

statutes or by constitutional provisions, slavery was expressly prohibited. By the Emancipation Proclamation (*see*) of President Lincoln (January 1, 1863), all persons held as slaves within certain designated states and parts of states, the designation being intended to cover the portions of the territory of the United States within which a condition of rebellion existed, were declared to be free. This proclamation was, however, effectual only as a war measure, and did not in itself render slavery unlawful.

E. McC.

SLEEPING CARS. As early as 1836 night trains in the United States were occasionally fitted with a device for turning up the backs of the seats and constructing sleeping berths over and under the backs. This gave place in the neighborhood of 1859, to cars fitted with a crude system for upper and lower berths. These were operated by each company for itself as a part of its regular equipment. About the time of the Civil War, began the practice of running sleeping cars over more than one line of road; and alongside with fast freight lines, and the express business, were developed several sleeping car companies of which the Pullman and the Wagner became the most important. The Wagner system in 1899 was absorbed by the Pullman, which shortly came to have almost a monopoly of the business. As late as 1912 a few roads, like the Chicago and Northwestern, and Chicago, Milwaukee and St. Paul, Canadian Pacific and New York, New Haven and Hartford, were still running their own sleepers and parlor cars.

The general arrangement is that the Pullman Company furnishes the car, the railroad furnishes track, station facilities and motive power; the Pullman company takes all the berth fare, the railroad company takes the regular fare. This gives the Pullman company a very large profit, so that the rates, though low in comparison with those in other countries, were somewhat reduced in 1911 by the Interstate Commerce Commission (*see*). On the other hand the railroad companies undertake the expensive hauling of the heavy cars somewhat to their disadvantage; and the ordinary fare passenger traffic in the end has to make up the loss, if any. Inasmuch as desirable travel cannot be drawn to a road upon which Pullman cars are not running, the Pullman Company is in a position to dictate.

The business is organized in a great corporation, the Pullman Company. Its report of June, 1912, to the Interstate Commerce Commission, showed that for the preceding year its capital stock was \$120,000,000; its total revenue \$40,219,748; its operating expenses \$22,608,178; its dividends \$9,599,460, being 8 per cent on its capital stock. It owned or controlled 6,229 cars, and its assets in cars, real estate, and operating supplies were valued at \$107,448,698.

The company maintains a manufacturing plant at Pullman, Illinois, near Chicago, which was intended to be a model factory town. Besides its own cars it builds passenger cars of other types for the railroads.

The company builds and operates cars of several types: (1) the parlor car, intended for day runs only; (2) the standard sleeper, which includes most of the rolling stock, and has come down to a normal type; (3) the tourist sleeping car, built on almost the same plan as the standard, but plainer in finish, provided with rattan seats, and including a little kitchen where passengers may cook light meals; (4) compartment sleeping cars; the Pullman Company has never taken kindly to closed and separate sleeping compartments, but runs a few cars of this type on through lines at extra fare; (5) observation cars, with or without regular berths.

On most lines the Pullman Company has a conductor of its own, who receives the Pullman fare, which is calculated at about half a cent a mile—tourist sleeper rates just one half or about a quarter of a cent a mile.

The sleeping car service is a public convenience and travel is benefited by the service of this national company, inasmuch as the Pullman cars run on through routes which may pass over several different railroad lines. These long routes extending into several states made it difficult to regulate the Pullman service. Between 1890 and 1908 some states passed laws regulating the service from one point to another point in the same state, as for instance, compelling the company to leave the upper berth up when it was not sold. By act of Congress of 1908 sleeping car lines were placed within the jurisdiction of the Interstate Commerce Commission, which has required annual reports of the companies, and in 1911 made a special investigation of the service and ordered some reductions on through rates in the far West, and a flat reduction of 20 per cent on all upper berth rates, which up to that time had been the same as the lower berth rate.

See INTERSTATE COMMERCE LEGISLATION; PULLMAN CARS, REGULATION OF; RAILROAD COMMISSIONS, STATE.

Reference: Interstate Commerce Commission, *Reports*. ALBERT BUSHNELL HART.

SLIDELL, JOHN. John Slidell was born in New York City in 1793 and died in London July 29, 1871. Educated in New York and at Columbia he began a business career, but failing, he studied law and settled in New Orleans in 1819. He entered politics as a supporter of Andrew Jackson in 1828 and entered the national House of Representatives in 1842 as a state rights Democrat. In 1845 he was minister to Mexico but failed of recognition. He was elected to the United States Senate in 1853 where he remained until 1861.

An ardent believer in the "peculiar institution" of the South he advocated the doctrine of secession and was one of the most influential leaders of the anti-Douglas forces in the Charleston convention of 1860. He was appointed Confederate commissioner to France in 1861. Seized on the high seas by Captain Wilkes on behalf of the United States, he was held a prisoner until his release was demanded by England. He won the sympathy of Louis Napoleon, secured a loan of \$15,000,000 for his government and only barely missed the object of his mission, the recognition of the Confederacy by France. He lived in England from the close of the war until his death. See CONFEDERATE STATES; TRENT AFFAIR.

W. E. D.

SMITH, JOHN. John Smith (1579–1631) was born at Willoughby, Lincolnshire, England, in January, 1579. According to his own account of his life, which, if not to be rejected as untrustworthy, cannot be verified in detail, he ran away from home as a boy, saw something of France and the Low Countries, and served in arms with the Huguenots and against the Turks. He was a member of the Virginia Company of 1606, and went with the first expedition dispatched to Virginia; but he quarreled with Wingfield on the voyage, was put in irons, and was only released when, upon arrival, the sealed instructions were found to have designated him as a member of the council. He showed firmness and skill in dealing with the Indians, was made president of the council in September, 1608, and during the following winter, by vigorous measures, saved the colony from starvation. A wound compelled his return to England, but in 1614 he explored the coast of New England and made a map of the region. The next year he entered the service of the Plymouth Company, but did not again visit America. He died at London, June 21, 1631. See VIRGINIA. References: John Smith, *Works* (E. Arber, Ed., 1884); W. Stith, *Hist. of Virginia* (1747, 1865); E. Channing, *Hist. of the U. S.* (1905), I. chs. vii, viii. W. MACD.

SMITH, JOSEPH. Joseph Smith was born in Sharon, Vt., December 23, 1805. He claimed to be an inspired leader and the discoverer and translator of the Book of Mormon. In 1830, he founded the Mormon Church at Palmyra, N. Y. The "Latter Day Saints," in 1840, established the "Holy City" at Nauvoo, Ill. This was a well-built city, having a population of 15,000 in which Smith was "prophet, mayor, general and judge." His authority was supreme over his followers through the military organization which he established, in which he was, himself, lieutenant-general. He advocated greater powers for the President of the United States. In 1844, chiefly because of his doctrines on religion, he was killed by a

mob. See UTAH. References: Johiah Quincy, *Figures of the Past* (1901), 376-400; O. F. Berry, "Mormon Settlement in Illinois" in Ill. State Hist. Society, *Transactions*, 1906, 88-102. J. A. J.

SMITHSONIAN INSTITUTION. The Smithsonian Institution is a learned institution in Washington, D. C., established in 1846 under the terms of the will of James Smithson of England who bequeathed his fortune "to the United States of America, to found at Washington, under the name of the Smithsonian Institution, an establishment for the increase and diffusion of knowledge among men." This bequest, amounting to \$541,379.63, was formally accepted by Congress, and the Institution was established by an act approved August 10, 1846. By subsequent gifts and bequests the permanent fund has increased to \$997,500, 000. In 1891 the Hodgkins Fund was created, the income of part of which is devoted to the study of atmospheric air in relation to the welfare of man. The statutory members of the Institution are the President of the United States, the Vice-President, the Chief Justice, and the heads of the executive departments. The governing body is a board of regents composed of the Vice-President of the United States, the Chief Justice, three members of the Senate, three of the House of Representatives, and six citizens selected by Congress. The board elects a chancellor as its presiding officer. The executive officer is the secretary of the institution who is elected by the regents.

The objects of the Institution are: (1) to increase knowledge by original investigation and study in either science or literature; (2) to diffuse knowledge not only through the United States but everywhere, especially by promoting an interchange of thought among persons prominent in learning in all nations. The Institution aids investigators by making grants for research and exploration. It has initiated numerous scientific projects some of which have resulted in the creation of independent government bureaus. It advises the government in many matters of scientific character, especially those having an international aspect. It coöperates with scientific bodies of national importance.

Under the fostering influences of the institution a number of dependencies or branches have grown up, which are supported by appropriations from Congress, the secretary being the ex officio head of each. These are as follows: the international Exchange Service, begun in 1850 for the interchange of scientific publications between learned institutions; the United States National Museum, the lawful place for the deposit of objects of art and of foreign and curious research, and all objects of natural history belonging to the United States; the National Gallery of Art, created in 1846 by the act establishing the Smith-

sonian Institution; the Bureau of American Ethnology, which has devoted much attention to the native American tribes; the National Zoological Park, established in 1890; the Astrophysical Observatory, established in 1890; and the United States Bureau of the International Catalogue of Scientific Literature. The Smithsonian library contains about 280,000 volumes, mostly deposited in the Library of Congress. The Institution and its branches or dependencies published up to the year 1913 about 440 volumes.

References: G. B. Goode, *Smithsonian Institution, 1846-1896* (1897); W. J. Rhees, Ed., "The Smithsonian Institution: Documents Relating to its Origin and History, 1835-1899" in *House Doc.*, 56 Cong., 1 Sess., No. 113 (1898). CHARLES D. WALCOTT.

SMOKE, PUBLIC REGULATION OF. A recent investigation conducted by the United States Government revealed that smoke causes, in the United States, more than \$500,000,000 damage each year, by injury to merchandise through soot; through the defacement of buildings, and the tarnishing of metals; through increasing the labor and cost in housekeeping; through injury to plant life; and through impairment of health and human efficiency. The first attempt to abate the smoke nuisance was taken in 1819 when England appointed a parliamentary committee "to inquire how far persons using steam engines and furnaces could erect them in a manner less objectionable to public health and comfort." In 1875 England passed a public health act levying a fine for all nuisances due to smoke from furnaces and chimneys. Action in the United States has been largely taken by municipalities, among which Chicago, Cincinnati and Boston have taken the lead. Chicago, for instance, has an efficient smoke inspection department, charged with the task of keeping down the smoke in some 16,000 boiler plants, and 1,600 locomotives, and provided with a splendid scientific equipment. Smoke dissipating chimneys are not effective. Government regulation must therefore require proper equipment of furnaces and efficiency in firing. See HEALTH, PUBLIC, REGULATION OF; POLICE POWER. References: W. C. Popplewell, *Prevention of Smoke* (1901); W. Nicholson, *Smoke Abatement* (1905); Booth and Kershaw, *Smoke Prevention and Fuel Economy* (1904); London Smoke Abatement Committee, *Official Report*, 1882; "Reports of the Laws in Certain Foreign Countries in Regard to Emission of Smoke from Chimneys" in *Foreign Office Return Co.* (1905), 2347; *London Fog Inquiry* (1901-1902); Department of Smoke Inspection, City of Chicago, *Reports*, 1911, 1912. C. L. K.

SMUGGLING. Smuggling is the act of importing into the country dutiable articles without passing them through the custom house or

submitting them to revenue officers for examination. Technically it is to be distinguished from fraudulent entry which more specifically applies to deception in the valuation and classification of goods at the time of entry and appraisal (*see* SUGAR FRAUDS). Smuggling is likely to be extensive when tariffs are severely restrictive, thus affording large profits to those who are successful in avoiding the payment of duties.

In the colonial period, when the navigation laws of Great Britain placed many restrictions upon the commerce of the colonies, not only with foreign nations but with the mother country, the practice became prevalent. Even respectable merchants participated in illicit trade, and public sentiment was so demoralized in regard to the evasion of revenue laws that when the cause was removed, a low standard of mercantile morality as far as public financial obligations were concerned, continued to prevail. The embargo and non-intercourse acts at the beginning of the nineteenth century led to a revival of such frauds on an extensive scale: and until the government was able to establish its authority with vigorous measures along the southern Atlantic coast, there were ample opportunities to engage in smuggling operations with Cuba and the West Indies.

Smuggling at the present time is carried on along the northern and southwestern frontiers, more particularly in the bringing of horses and cattle, and by incoming passengers from Europe (*see* PASSENGERS' BAGGAGE). Though usually petty in individual cases, smuggling by travelers in the aggregate amounts to a serious evasion of the customs laws. It has been fostered by the annoying regulations of a highly protective tariff, by a perverted public sentiment in regard to the morality of such practice when undertaken on a small scale, and by the low morals of customs inspectors who accept bribes at some ports of entry. Officers and other employees of the incoming steamers sometimes smuggle on their own account. Determined efforts have been made to raise the standard of subordinate officials and enforce the revenue laws more strictly.

The penalties against smuggling are severe. Goods are confiscated, and the person, if convicted, may be fined, not exceeding \$5,000, or imprisoned not exceeding two years, or both.

Punishment, however, as a rule is limited to a confiscation of merchandise. In 1911 but two travelers were sentenced to imprisonment, and four were fined. Two steamship officials were also sentenced to imprisonment.

See PASSENGERS' BAGGAGE, DUTIES ON; SMUGGLING; SUGAR FRAUDS; TARIFF ADMINISTRATION; UNDERVALUATIONS.

Reference: U. S. Treasury Department, *Finance Report*, 1910, 10-12.

DAVIS R. DEWEY.

SNAPPERS. A nickname applied to the machine Democrats in New York in 1892, who, under the leadership of David B. Hill, held a very early state convention on short notice, called a "snap" convention (Feb. 22, 1892). The Hill machine worked smoothly and without opposition, and a solid body of "snappers" came to the state convention and in two hours and a half ground out the work prearranged by the leader of the machine, sending a solid Hill, or anti-Cleveland, delegation to the national convention. This convention was also called the "Kodak Convention"—the boss manipulator pressing the button and the obedient "snapper" delegates doing the rest. *See* ANTI-SNAPPERS.

J. A. W.

SOAP. A term used by the Republicans as a telegraphic cipher for money during the campaign of 1880. It gained political currency in 1884, as a campaign slogan of the Democrats charging corruption against the Republicans. *See* CORRUPTION.

O. C. H.

SOCIAL CENTER. The term relates to an effort to provide the opportunity for the people of small communities, or parts of larger communities, to come together, and to cultivate mutual interests. In some places the movement takes the form of allowing the school houses to be used in the evenings, and on Saturdays, and even Sundays, for social meetings, amateur plays, and the like. In some cases another building is constructed or set apart for the same purposes. The public authorities recognize that public property may be used not only for the instruction of youth, but for the enjoyment of the whole community. *See* AMUSEMENTS, PUBLIC; EDUCATION, RECENT TENDENCIES IN; PUBLIC MORALS, CARE FOR; SCHOOL EXTENSION.

A. B. H.

SOCIAL COMPACT THEORY

An Ancient Theory.—The origin of the state or of government in an agreement or contract is one of the oldest of political theories; the theory changed its form as the centuries went by, for like other theories it was influenced by movements of society, by developments of

religious or ecclesiastical thought, by conditions of political or governmental order. But in one form or another, the theory was used by political writers from the ancient Greeks to Thomas Jefferson and beyond (*see* POLITICAL THEORIES, ANCIENT AND MEDIEVAL).

Nature of the Compact.—The exact nature of the compact it is not always easy to discover from the writings of those who announced the doctrine or took it for granted; sometimes the contract was not, strictly speaking, a social compact at all but rather a contract between government and governed; sometimes it was an agreement whereby men entered into what we should now call the state or organized society. Sometimes, generally indeed, the exact nature of the arrangement is obscure. At least from the beginning of the seventeenth century the contract is commonly represented as between men on entering into social and governmental relations, and such theory was easy and natural for those Puritans that advocated the establishment of the church through covenant. Locke's theories are not perfectly plain, but his contract appears to be of the kind last named. The same is true of Milton, and, of course, of Rousseau. Pufendorf (1672) names two distinct contracts.

English Publicists.—Among the earliest of those whose writings especially influenced the foundations of the doctrines that were taken up and applied in America was Richard Hooker, who in the latter part of the sixteenth century discussed in his *Ecclesiastical Polity* (1593 or 1594) the presocial state of man and the establishment of civil society and government through consent. In the next century the idea that men had existed in a state of nature and had come under government by virtue of agreement was commonly held and insisted upon especially by those who objected to the doctrines of divine right and sought to establish the theory that kings and governments have delegated rather than inherent and original power. Milton, for example, says: "No man who knows aught can be so stupid as to deny that all men naturally were born free . . .; and that they lived so till from the root of Adam's transgression falling among themselves to do wrong and violence . . . they agreed by common league to bind each other from mutual injury and jointly to defend themselves against any that gave disturbance or opposition to such agreement. . . . The power of kings and magistrates is only derivative, transferred and committed to them in trust from the people to the common good of them all, to whom the power yet remains fundamentally, and cannot be taken from them without violation of their natural birthright." John Locke's *Two Treatises of Government* (1690), summing up as it did in considerable measure the political philosophy of the century as far as it made against the supreme authority of the monarch, was probably of more influence in America than any other one book, though it is plain that some men of the American Revolution knew other writers and probably were conversant with Grotius, Pufendorf, Montesquieu, Vattel and others. Locke's

statement, like that of others, is wanting in complete definiteness concerning the form and content of the contract by which men left the inconveniences of a state of nature; but he relies fully on the fact of consent and agreement: "Men being, as has been said, by nature all free, equal and independent, no one can be put out of this estate and subjected to the political power of another without his consent, which is done by agreeing with other men, to join and unite into a community for their comfortable, safe and peaceable living, one amongst another, in a secure enjoyment of their properties, and a greater security against any that are not of it" (*Second Treatise*, § 95). Locke and Milton, unlike some others who upheld the compact theory, insisted on the literal historical fact of compact. The reasons that actuated men to leave a state of nature were, according to Locke, sufficient in themselves to refute any doctrine supporting absolutism as a system of government.

New England Compact.—No statement of the compact theory, even a brief article like this, should omit the fact that the men of early New England did agree in a good many cases to live together and to subject themselves to the government of the whole. To say that these persons did not technically form independent states and that they did not enter society from a state of nature, from a condition of pure individualism, is to dwell on the technically correct and to lose sight of the influential truth. The formation of churches by agreement and covenant, the organization of self-governing towns resting on the consent of the governed, helped at the very least to take the doctrine of compact out of the rarified air of political theory and to make the idea something like a reality to the American colonists.

American Constitutional Theory.—The influence of the compact theory in American history and government can scarcely be overstated. The principle that men existed before government and that government rests on consent of the governed was a natural revolutionary doctrine and was made use of to combat the theory of the complete sovereignty and legislative power of Parliament. When the state constitutions were formed there was in some quarters at least, a belief that the men of the time were faithfully carrying out the principle of compact: "As a reward for our exertion in the great cause of freedom," said Jonathan Mason, Jr., in 1780, "we are now in the possession of those rights and privileges attendant upon the original state of nature, with the opportunity of establishing a government for ourselves, independent upon any nation or people upon earth." The next year, 1781, Thomas Dawes, Jr., exclaimed, . . . "And yet the people of Massachusetts have reduced to practice the wonderful theory.

A numerous people have convened in a state of nature, and, like our ideas of the patriarchs, have deputed a few fathers of the land to draw up for them a glorious covenant." It is well known that the constitution of Massachusetts declares that "The body politic is formed by a voluntary association of individuals: it is a social compact, by which the whole people covenants with each citizen, and each citizen with the whole people that all shall be governed by certain laws for the common good." The Virginia bill of rights says that "All men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot divest their posterity."

The same conception was in mind at the adoption of the Constitution of the United States. For example, the letter which the convention of 1787 drew up and which Washington signed contains the doctrine of compact—evidently with the notion that the states surrendered a portion of their sovereign rights to preserve reserved rights. "It is obviously impracticable," said the letter, "in the Federal Government of these states, to secure all rights of independent sovereignty to each, and yet provide for the interest and safety of all: Individuals entering into society must give up a share of liberty to preserve the rest." This theory that the state had "reserved rights," similar to the rights reserved by individuals when entering society, appears to be the principle of the Virginia and Kentucky Resolutions (*see*).

The compact theory, with its necessary supposition that men had existed as individuals before the establishment of the state and government, that men have inherent rights which they did not obtain from government, underlies the individualistic principles of American law. Modern collectivism and the sense of the rights of the community as such often show themselves at variance with the fundamental notion of individual freedom and the reserved rights of the individual.

See **BILLS OF RIGHTS; GOVERNMENT, THEORY OF; ORGANIC THEORY OF THE STATE; POLITICAL THEORIES; STATE, THEORY OF.**

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ANDREW C. McLAUGHLIN.

SOCIAL DEMOCRATS. This party was organized in 1897 under the leadership of Eugene V. Debs, the former president of the American Railway Union, who had led the great railway strike of 1894 and had suffered imprisonment by injunction,—an experience that converted him to Socialism. In 1898, in state and congressional elections, Socialist candidates received 91,749 votes, the Social Democrats polling but 9,545 of these. In 1900 there was a union among Socialists and the Social Democrats, with Eugene V. Debs, of Indiana, and Job Harriman, of California, as their presidential ticket, polled 87,814 votes, the greater part of the Socialist Labor (*see*) party coming to its support. The party declared against capitalism and for collective ownership of the means of production. The object of the party was to organize the working class into a political party and to abolish "wage-slavery" by establishing a national system of coöperative industry. Its immediate demands were, the public ownership of all monopolized industries, the railroads, telegraphs, telephones, mines and gas wells; the reduction of hours of labor; a system of public works to engage the unemployed; national insurance for working people; equal political rights for men and women; the initiative, referendum and recall; the abolition of war and the introduction of international arbitration. Since 1900 the party has been generally known as the Socialist party (*see*). See **SOCIALISM; SOCIALISM, STATE; SOCIALIST PARTY.** References: F. H. McKee, *National Conventions and Platforms* (1901), 372-373; E. V. Debs, "Social Dem. Party" in *Independent*, LII (1900), 2018-2021; A. Rosenthal, *Differences between the Socialist Party and the Socialist Labor Party* (1908).

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SOCIAL ETHICS. See **DEMOCRACY AND SOCIAL ETHICS.**

SOCIAL EVIL, REGULATION OF. Government regulation of the social evil in the United States has gone through four distinct phases, suppression, regulation, the "white slave" crusade, and social investigation.

Suppression.—The keeping of houses of prostitution is penalized by nearly all the states of the American Union; and with one exception none of the states legally regulates it. Prostitution itself is penalized in a few states, and fornication in a large majority of the states. Prostitution is indiscriminate sexual intercourse for gain. Fornication is illicit intercourse, and differs from prostitution in that it relates to a single act and is irrespective of gain. The only state which legally regulates houses of prostitution is Louisiana, whose laws are founded on the Napoleonic Code. Under the state code prostitution and houses of prostitution have been segregated and regulated by municipal ordinance in the city of New Or-

leans. In Missouri, for a brief period, a state law, not generally understood at the time of its enactment, authorized segregation and regulation of prostitution in St. Louis (1870-73) but when the significance of the statute became known, it was attacked and repealed. With these exceptions, there has been no legal toleration of prostitution in the United States.

Regulation.—Regulation of the social evil, though legally forbidden by implication, has been the general police policy, and that policy has been tacitly accepted by the courts. In Washington, the national capital, segregation of houses of prostitution was—till 1914—the avowed policy. In several cities on the Pacific coast a similar policy has been openly maintained. In the large cities of the East segregation has been the tacit, though not the avowed policy. In Boston, alone, during the five years 1908-1913 the Commissioner of Police has declared uncompromising warfare against all houses of prostitution.

Police officials throughout the country almost without exception have held that prostitution was inevitable and even necessary. They have therefore ignored the law except in certain instances of open and flagrant offense. No legal license fees have been established, but it is the common knowledge that payments of protection money to the police by prostitutes and keepers of houses of prostitution are customary. Failure to make such payments have been a not infrequent cause of police arrests.

The courts have been as slack as the police in the enforcement of the laws relating to the social evil. With a few notable exceptions judges and magistrates have imposed only fines as penalties upon prostitutes and keepers of houses of prostitution. Such penalties are in effect only license fees and are generally so regarded by the defendants. While this attitude of the judiciary still obtains to a considerable extent, the bench as a whole has decidedly altered its policy. Sentence of imprisonment is more frequently imposed after conviction upon keepers of houses of prostitution; and prostitutes convicted of street solicitation are more generally committed to reformatories. In short, the laws against prostitution are at present more honestly and effectively enforced and the toleration of the social evil by the police and by the courts is less general.

White Slave Trade.—From 1880 to 1900 a vigorous agitation was carried on both in England and on the continent against the alleged enticement and seduction of girls and their subsequent confinement in houses of prostitution by the procurers who bought or enticed them. Their condition was declared to be actually that of slavery according to its exact definition of "complete subjection to the will and commands of another." Hence the procuring of these girls was styled "the white slave traffic." This term was adopted in a

treaty drafted in Paris in 1902 at a Congress called by the French Government to consider means for the suppression of the traffic. The treaty was ratified by the leading governments of Europe and by that of the United States, and was highly significant as being the first international treaty to deal with the social evil. Its ratification by nearly all the great treaty-making powers of the world may justly be regarded as epoch-making.

Following the treaty of Paris and as a result of exposures in America similar to those in Great Britain and in Europe, two national laws were passed in the United States. The first, known as the Bennet Law (Mar. 26, 1910), penalizes the importation of women into the United States for immoral purposes, and the second, the Mann Law (June 25, 1910), penalizes their transportation from state to state for such purposes. The Bennet Law aimed at evils connected with immigration, and the Mann Law aimed to correct the weakness of state laws and the lack of interstate co-operation in the prosecution of crimes against women. In addition to these national laws aimed at this traffic, during the period between 1905-1910, thirty-five states also passed "white slave" laws.

Social Investigation.—A notable feature of the recent agitation regarding the social evil in the United States has been the consideration of it as a social problem, due mainly to the conditions of modern life, rather than as a purely criminal problem. As early as 1858 a remarkably thorough investigation on this line was made in New York City by Dr. William W. Sanger; but the time was not ripe for its proper appreciation and use. Of more recent investigations, the first was made in 1902 by the Committee of Fifteen of New York City. But the first comprehensive investigation was that of the Vice Commission of Chicago in 1910. Following this came the Report of the Minneapolis Vice Commission (1911), the Study of the Laws in New York relating to the Social Evil by the Committee of Fourteen of New York City (1910), and the Presentment of the Additional Grand Jury of New York County in June, 1910. At the present time (1914) investigations are under way in New York, Philadelphia, Baltimore, and Boston, and the subject once avoided is receiving serious consideration by municipal, state, and national authorities. The theory heretofore held that the social evil is inevitable is losing ground. In its stead has arisen a new belief and confidence in the efficacy of social remedies and in the imposition of severer penalties upon those who procure and exploit women for immoral purposes.

See AMUSEMENTS, REGULATION OF; HEALTH, PUBLIC, REGULATION OF; HOTELS AND LODGING HOUSES, REGULATION OF; POLICE IN AMERICAN CITIES; PRISONS FOR WOMEN; PUBLIC MORALS, CARE FOR; SOCIAL REFORM, PROBLEMS OF.

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SOCIAL ORGANIZATION, THEORY OF.
See SOCIOLOGY.

SOCIAL REFORM, PROBLEMS OF

Historical: Dependent Classes and Remedial Measures.—Natural inequalities in the inherited abilities of men, supplemented by inequalities of opportunity involved in a competitive industrial system, have resulted in the division of society into hostile groups, rich *vs.* poor, cultured *vs.* ignorant. Social reform has for its object the adjustment of social conditions, so as to create harmony among these antagonistic groups. Palliative measures were first employed; the giving of alms by rich to poor indiscriminately. Then followed remedial measures for the dependent and dangerous classes of society. Charities became organized and scientific. Hospitals were provided for the sick, public almshouses for the destitute and aged, asylums for the insane and defective, prisons for the criminal; but the treatment was stereotyped, not fitted to the special needs of the cases. Many such institutions still remain in the most enlightened communities, and their improvement still constitutes a serious problem of social reform.

Recent advances in the study of psychology and therapeutics have revealed the necessity of adapting the means of cure to the mental and physical needs of the patient. This involves not only classification of types, but also "case records"—study of heredity and environment—and continuous personal contact with each case by sympathetic officials. The result of this new type of treatment is the education of the body, mind and character of the patient, increased productivity, and consequently a decreased economic loss to the community.

Institutional treatment for these classes is decreasing or at least is supplemented by increased personal attention. The destitute, after examination, are less frequently aided with money but are found employment or given instruction in improved domestic or industrial methods. Neglected children are not put in orphanages but placed in private homes. Institutions for defectives or delinquents are not forbidding barracks but are schools built on attractive cottage plans, and practising minimum restraint, self-government by inmates, and daily instruction in workshops or farms. The destitute and many types of abnormal persons are rendered self-supporting. The practices of after-care of patients and of parole

for prisoners continue the care of the institutional center over the individual until his process of adjustment with society is finished and the danger of reversion is minimized.

Even these improved methods of alleviation and cure are, however, constantly being displaced among the programs of social reform by methods which seek to eliminate the root causes of existing evil conditions in modern life. Social reform of today aims at the development of character and the establishment of a constructive environment in which all individuals may find maximum opportunity for proper development. Therefore any scientific program of social reform begins in an exact study of conditions to determine: (1) what is wrong in the social body; (2) what are the existent forces that may be adapted to social improvement.

Programs of social reform based upon this preliminary diagnosis fall into two main divisions: (1) direct improvement of the race through scientific breeding; (2) indirect betterment of society through the creation of an environment favorable to the development of the individual.

Home Environment.—The latter program of social reform—the improvement of environment—comprises by far the greatest portion of all current activities for social betterment. Studies of individual lives as well as studies of communities show that health or illness, progressiveness or deterioration, depend upon the nature of the individual on the one hand and the environment upon which he reacts, on the other. The nature of the individual depends upon accumulated factors transmitted through a long line but may be dwarfed, or unevenly developed, whether physically or mentally, by improper environmental conditions. For convenience the environments within which men live may be classified under three heads: (1) the home where they sleep and eat; (2) the place of work, where the family income is earned; (3) the environment of leisure hours. Programs of social reform are gradually recognizing the influences which these environments bring to bear upon men and communities of men and seek to eliminate destructive influences or prevent them from action, cultivating those influences that are constructive.

For example, housing surveys show that in all American towns there are dwelling conditions detrimental to the welfare of the occupant. Some houses are structurally unsafe, others inflammable and with inadequate fire-escapes. Tenement houses of cities may be overcrowded, reducing the available supply of oxygen to tenants, or may have dark hallways, common water-closets where diseases easily spread, damp basement dwellings and dark, ill-ventilated rooms where the bacillus of tuberculosis thrives, cellars, shafts and yards littered with refuse where flies breed and may carry the germs of typhoid fever or other diseases. On the farm the contents of the privy vault may pollute wells and indirectly infect the food supply of the city. Bad housing conditions both reduce the vitality of tenants through overcrowding and breathing of polluted air and increase the liability to contagion. Resultant illness may involve in turn unemployment, or industrial inefficiency and thus destitution and other evils.

Housing conditions as thus revealed by more than twenty recent intensive investigations in American cities (New York, Philadelphia, Washington, Chicago, Louisville, etc.) justify programs of reform which deal with causes, and the causes of causes to prevent them from operation. Dark hallways or rooms dangerous to health and morality are made light by new windows, toilets are cleaned and placed within each apartment, and repetition of existing evils in future dwellings is prevented by the enactment of improved tenement house legislation, with provision for enforcement. Or new suburban homes are erected for slum dwellers and methods are discovered to remove factories from cities into rural regions where each family can afford a private home—open to sunlight and air, with a garden. Prevention of recurrence of dangerous environmental conditions, and construction of a new improved home and community environment constitute the program of enlightened housing reform.

Governmental means of improving European housing conditions comprise municipal erection of model tenements and lodging houses (London, Liverpool, Glasgow); municipal erection of suburban cottages to rent to workingmen (London and Ulm, Germany); municipal purchase and development of suburbs on approved city-planning lines (Germany); taxation of land with reduction on improvements, causing vacant lots to be built up (Pittsburg and Vancouver, Canada); tax exemption or reduction for model dwellings (France and Italy); cheap state loans for philanthropic and coöperative societies building model dwellings (England, Germany). In the United States the government aids the improvement of housing conditions by legislation only; through health ordinances prescribing minimum sanitary conditions for existing dwellings; and building laws stipu-

lating in some detail the minimum size of rooms, yards and courts, the type of water-closet, height of building, fireproofing, etc. A few state governments have passed legislation governing tenement building throughout the state or in cities above a specified size (New Jersey, New York, Pennsylvania, Connecticut, Indiana, Wisconsin). Elsewhere, housing conditions are governed by municipal ordinance.

Industrial Environment.—The problems of the industrial environment have received more public attention in America than those of the home environment. Studies of family budgets have revealed the existence of wage rates too low to provide clean, nutritious food, in addition to rent, furniture, clothing and other necessities. The usual result in the workingman's family is either a use of foods inadequate to maintain efficiency, the taking of lodgers to reduce rents (causing overcrowding) or the exploitation of wives and children in industry with the intention of raising the family income. The presence of married women in trade and industry means not only the neglect of housekeeping and proper rearing of children but also the payment of low wages to all unskilled women. Child labor, similarly, is paid low wages and contributes to the reduction of the parent's wages and not only prevents continued education but also may stunt growth and cause early moral perversion.

Studies of factory life show that workshops are often unsanitary or crowded, that certain processes are dangerous to life or health, that fire risks are not properly safeguarded. Work too long or unvaried may equally reduce the vitality or dwarf the mentality of operatives. Immigration of hundreds of thousands of unskilled foreigners with low standards of living each year complicates the industrial problem by causing competition with native workmen.

These conditions are met by a wide range of organizations for the improvement of industrial conditions which may, like the movements for housing reform, be grouped into the philanthropic, coöperative and governmental. Philanthropic efforts at industrial reform include movements to protect or distribute immigrants, to protect child and woman labor; as well as thousands of local organizations, often federated by states or nationally, to relieve the hardships occasioned by the industrial system. Private initiative often improves industrial conditions locally through the establishment by employers of institutions for the welfare of their employees. These efforts take the form of "profit-sharing" or the granting of cash bonuses, pensions, or shares of stock to employees in addition to wages. They may take the form of "welfare work" under the direction of a "social secretary," providing artistic and sanitary villages, club rooms, athletic contests, educational classes, etc.

Organization of Labor.—Organization of workingmen as a means to improvement of the industrial environment takes three important forms: (1) trade unions to bargain with employers for higher wages, shorter hours of labor or protection of operatives from unjust conditions; (2) coöperative societies for the common ownership of trade and industry on a voluntary, democratic basis; (3) political organizations, of which the most significant aim to supersede capitalism by state ownership of the means of production. This latter movement for political socialism is rapidly growing in America. Coöperative movements which are highly significant in Europe—counting over 2,500,000 members in England alone, and distributing annually \$60,000,000 in profits—have scarcely gained a foothold among American workingmen.

By far the most extensive of these three movements of organized workingmen is the trade union (*see*). This form of organization is to be found in every state and in every important industry excepting agriculture. Women and child laborers are still ordinarily unorganized. Unions have accomplished a great deal for the improvement of labor by means of collective bargaining with the employer. In many trades they have shortened the hours of labor and increased wages. They have been seriously limited, however, in their scope by the presence of immigrants who are unable to act with native workingmen because unacquainted with the language. By means of strikes threatened or actual the trade unions have quite largely secured terms which improve the working conditions of their members.

Government Action in Industrial Betterment.—All forms of organization for the improvement of industrial conditions look to the government for aid. In Europe national governments have aided coöperative societies, through cheap loans and favorable legislation. In America state legislation is frequently hostile to coöperation. State governments have prevented widely the employment of woman and child labor under conditions dangerous to morality. They have further restricted the hours of labor for women and for children, and the kinds of industry in which they may be engaged. In all large industries excepting agriculture, child labor is safeguarded. Regulations in regard to compulsory education of children under specified ages, are on the statutes of the more progressive states. Governments also tend increasingly to provide for the safety of employees from accident and disease. Machinery dangerous to life is forbidden or required to be safeguarded by specified appliances. Dangerous trades are hedged about with regulations minimizing the health menace. Sanitary provisions for both sexes and fire-escapes are ordinarily required in factories.

State governments, further, may pass laws providing for optional or compulsory arbitra-

tion of labor disputes (*see*), systems of industrial education (*see*), employer's liability (*see*), minimum wages (*see*) and governmental provision of work for the unemployed.

Recreation Environment.—The environment in which men pass their leisure hours, aside from the home, comprises a variety of institutions tending to either the development or the degradation of manhood. Much of the leisure time of men must be spent in rest or in passive amusement. These hours may be spent in loafing on the street or in the club, they may be spent at the saloon in drinking and idle conversation, in houses of ill fame or in theaters good or bad. Commercial institutions aiming at maximum profit on the invested capital tend to provide such forms of amusement as will draw an average crowd. Among city places of amusement the moving picture show, the theatre for vaudeville and burlesque, the cheap dance hall, the billiard room and saloon play a very large part. Harmless sports such as baseball or football which involve physical exercise and healthy bodily invigoration become decreasingly possible where population is aggregated. Children, particularly, are seriously handicapped in their recreation by laws preventing play in streets.

Private action has attempted to improve these conditions by the establishment of settlement houses with common social rooms, clubs for boys and girls and for adults, classes for instruction in science and industry, dances and drama. Similar activities are carried on by institutional churches in cities and by employers of labor in industrial villages. Model theaters may be erected or current types controlled by organizations of citizens, as for example the moving picture productions throughout America have been regulated by a National Board of Censorship, with headquarters in New York City.

Clubs are often formed coöperatively sometimes for debating or political purposes, sometimes as secret societies or mutual benefit associations.

States have acted for the improvement of the conditions of recreation through legislation regulating or prohibiting saloons and houses of ill fame. Municipal governments have maintained boards of censorship to pass upon the commercial amusements of the city. More important, however, are the increasing number of institutions financed through government funds for constructive public recreations. Public baths and gymnasiums have been established by American municipalities. Extensive reservation of land for playgrounds and parks is becoming increasingly a recognized part of municipal action. Our cities have, however, waited too late before establishing them so that public playgrounds still are often remote from the area of congested population where they are most needed. Municipal concerts and

theaters, art museums, public libraries, and evening schools with branches throughout the city, are planned for the cultural development of the population.

American cities are now beginning to realize the necessity of providing social centers (*see*) or meeting places for the leisure hours of citizens—for lectures, games, amateur drama and, most important, for debates on matters of public interest. Rochester, N. Y., took the lead among American cities in opening her schools for these purposes. The establishment of public social centers, open on equal terms to everyone, is probably the next important step which city government may take to provide constructive recreations for the people.

Programs of city planning (*see*), increasingly advocated, provide not only for the proper layout of cities, the segregation of industry, the building of adequate streets for traffic purposes and retired streets in residence sections, but must take cognizance of the social life of the city and the need of the population for direct contact with the natural environment which parks or suburbs afford. Adequate reservations of land for parks, schools, libraries and social centers, should be made in advance before the price of land becomes prohibitive. In no other way is it possible for the state to provide adequately for a healthy use of leisure hours by all of its population.

Eugenics.—Movements for social reform which deal only with the improvement of environmental conditions are hampered or made wasteful by the presence in the social body of inferior types of men. The basic program for social reform would rid society of its undesirables and build a race superior to our own by means of scientific breeding of men. This program in negative form would prevent the unfit, hereditary degenerates, defectives, etc., from breeding, by means of segregation or by surgically rendering them incapable of procreation. This so-called Indiana plan has not yet been widely copied in the United States nor has segregation of the unfit been practised in a large percentage of cases; hence the breeding of hereditary criminals, imbeciles, blind, deaf-mutes and syphilitics con-

tinues. A positive form of the eugenics movement would advise, and among extreme eugenisists would force under governmental direction, the mating of certain specified types calculated to perfect the species. The American headquarters of this movement is the eugenics' section of the American Breeders' Association, with office at Cold Spring Harbor, Long Island. The eugenics doctrine, though propounded in classical times, has not been widely advocated among American social reformers until recently. The present stage of the movement is one of careful scientific research to which physicians, biologists, psychologists and social scientists contribute. The science of eugenics has not yet been widely popularized, though it is likely to be applied as a primary measure of social reform. Government action in this field is as yet limited to: (1) segregation—too often temporary—of such types of the unfit as by law require institutional treatment; (2) sterilization of certain types of the unfit in Indiana and a few other states—seldom practised; (3) laws in a few states preventing marriage of specified types of unfit—easily avoided by illicit intercourse or by immigration to states which lack such laws.

See CHARITIES, ASSOCIATED; CHARITIES, PUBLIC AGENCIES FOR; CHILDREN, PUBLIC CARE OF; DEFECTIVE CLASSES.

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SOCIAL SETTLEMENTS. See SETTLEMENTS, SOCIAL.

SOCIAL WORKERS, SCHOOLS FOR. See SCHOOLS FOR SOCIAL WORKERS.

SOCIALISM

Definition.—The term socialism, like democracy or republicanism, is very difficult to define, because it includes so many different shades of opinion. Its exponents are sometimes led to define it so vaguely as to rob it of all meaning, and to include nothing to which anybody could possibly object. Thus it is sometimes defined merely as a policy which aims at a better distribution of wealth than that which now exists. In somewhat more definite form it is sometimes defined as a policy which aims to

secure a better distribution of wealth through the public ownership and operation of the means of production—that is, of the farms, factories, railroads, stores, shops, etc. A little reflection will show that the first of these definitions is entirely misleading. Every one who thinks at all desires a better distribution of wealth, but that does not make every one a socialist. The avowed socialist will emphatically repudiate any one who claims to be a socialist on this ground while opposing the

public ownership and operation of the means of production. That which distinguishes the socialist from the non-socialist is not the desire for a better distribution of wealth, but the program by means of which that end is to be attained. A socialist is one who believes that it is to be attained by means of public ownership and operation of the means of production. A non-socialist is one who believes it is to be attained in some other way. Thus the term socialist, like the term vegetarian, is an exclusive one, and includes only those who believe in a fairly definite and specific program.

Foundation Theory.—The theory on which this program is based is also fairly definite and explicit. There is no leading socialist who, and no influential socialist book which, does not accept absolutely the formula, "Labor alone is productive." From this formula the reasoning is fairly consistent and conclusive. Labor (*see*) alone being productive, labor alone earns income. All other income—rent, interest, profits—are therefore unearned and the result of exploitation. No one who accepts that formula could do otherwise than advocate socialism in the strict and exclusive sense already described. But while capital (*see*) is unproductive, according to these formulists, it is highly useful for production, and must therefore be had. This is of course inconsistent, but inconsistency is a minor matter. The only way by which this useful factor in industry can be had, without allowing individuals to derive income from it, is for the public to own and operate it.

Contrary to a somewhat widespread belief, socialism would not do away with competition (*see*) as such, though socialists have made use of the evils of competition as an argument in favor of their policy. But there are two distinct types of competition in modern society, the industrial and the political. There is just as fierce a rivalry among individuals for political office, or civil service positions, as there is in the industrial field for business and customers. The effect of the socialistic program would be greatly to increase the political form of competition by bringing nearly every occupation under the civil service, and greatly to restrict the field for the industrial form of competition by taking industries out of the field of private enterprise. Practically every worker would then be an employee of the public, and in a position similar to that of the men now engaged in the civil service. The result would be that the largest success would go, under socialism, to the men who were most adapted in that form of competition which goes on in politics and in the civil service; whereas the adepts in that kind of competition which now goes on in business would find their field of endeavor greatly restricted and would therefore have a smaller chance of success.

Modified Socialism and Individualism.—

There are some half-hearted socialists who do not demand the full socialistic program, but who profess to be willing to leave some room for private enterprise, especially of the smaller sort. There is no individualist who opposes every form of government enterprise. The essential difference between this mild form of socialism and the modified individualism which is now the prevailing practical philosophy is, briefly, as follows: Under socialism all the great means of production, such as are now owned and managed by large corporations, would be owned and operated by the public—that is, either by the state or by local governments. Under individualism the greater part of these instruments of production are, in the main, to be owned and managed by private individuals, or by voluntary associations like corporations, coöperative societies, etc. In neither case does one form of ownership exclude absolutely the other; but under the individualistic system the presumption is always in favor of individual initiative, while public ownership and management are the exceptions, and the burden of proof is thrown upon those who advocate public ownership in any specific case; whereas under socialism the presumption is always in favor of public ownership, while private ownership and management are exceptional cases, and the burden of proof is upon any one who desires to initiate, to own, and to manage a private business. In the main this must be contrary to socialistic policy, because any one who would desire to own and operate a capitalistic enterprise, however small, must expect to derive some advantage from such ownership. But since, according to the socialist formula, capital is unproductive, such an advantage to the individual must be an unearned advantage; and unless he can show some reason why he can be allowed such an advantage the logic of the situation would forbid his receiving it. The individualist (*see* INDIVIDUALISM) believes, however, that capital is productive, or useful in production, which means the same thing. The creator of a useful factor in production is himself a producer and entitled to a reward for his productive service, therefore he is not expected to prove his right before being allowed to own and manage capital. It is taken for granted that he has a right to own and operate a piece of productive capital if he sees it to be to his advantage to do so. They who deem it inexpedient that he should be allowed to do so must prove their case in every individual instance. This does not imply that there are no such cases, for there are a good many industries in the aggregate which seem to be better adapted to public than to private ownership. Under this individualistic philosophy there is no reason against public ownership in such cases. Thus the essential difference between this milder form of socialism and the

practical individualism of the present is one of presumption and burden of proof. The individualist assumes that individual ownership and initiative are entirely proper, unless a satisfactory reason in each instance can be shown to the contrary. The socialist assumes that individual ownership and initiative are improper, unless a satisfactory reason can be shown in each instance in their favor. There is thus a sharply drawn issue between the two systems of practical philosophy. It matters not whether the socialist proposes a sweeping revolution or a gradual evolution, the issue is equally sharp in either case. However gradually it is to come about, the transfer from private to public ownership and control must eventually be fairly complete. This situation is a logical result of the socialistic theory of capital. If capital is unproductive, and the income from capital unearned (and no one is a socialist unless he believes that), then it is proportionally as unsound and irrational for a private individual to gain a hundred dollars as a million dollars as the result of such ownership.

Interest and Capital.—From the strictly scientific point of view, the whole question turns upon the problem of interest. If the capitalist performs a useful function, in return for which he receives interest, then interest is earned. And one who believes this cannot be a socialist. If the capitalist does not perform a useful function, if capital is unproductive or useless in production and interest is unearned, no one could be anything but a socialist.

To deny that capital is productive and to admit that it is useful in production (*see*) is, as already indicated, inconsistent. To deny that capital is productive is to deny that tools are useful; for capital is tools. If tools are useful, then every one who has an essential part in the making of tools is performing a useful service. The first step in the making of a tool is the decision of some one to postpone consumption; that is, to expend his time and energy, or his money, for tools rather than for consumers' goods. If I have a dollar and spend it for food for my own satisfaction, I to that extent encourage the producers of food. If instead of buying food I decide to buy an ax, I to that extent encourage the makers of axes. Upon my decision depends whether the productive forces of society shall be directed into the food-producing or the tool-making industries. By spending my dollar for an ax, I virtually divert a dollar's worth of productive energy from the food-producing to the ax-making industry. The result of this is that society is better provided with axes than it would otherwise have been. Its future productive power is increased by that fact. My decision to forego the present consumption of food in order to buy an ax has increased the productive power of the community, and

I have to that extent rendered a service to the community. This is essentially the origin of every form of capital, whether it be an ax, a plow, a factory, or a railroad. They are all tools of different sizes.

No one who thus understands the nature and origin of capital could logically take the position that all private ownership of capital is wrong and all income from capital unearned. Nor could he take the position that the would-be owner and manager of a piece of productive capital must prove his case, or give a satisfactory reason why he should be allowed to do so, before being allowed to embark upon a productive enterprise. Such a person might believe in the public ownership of a good many things, like water works, electric lighting plants, or even railways. But he would expect to prove that private enterprise ought not to be allowed in these enterprises.

Most of the examples of unearned capital which the socialist points out are cases of rise in land values, of monopolistic accumulation (*see* MONOPOLIES), or of inherited capital. One can, however, be opposed to all these forms of capital—that is, he can be a single taxer, an anti-monopolist, and an opponent of the laws of inheritance which permit wealth to pass from one generation to another—without being a socialist. The single tax (*see*) does not interfere with the private ownership of land, and it leaves the management of land just where it is now. It merely taxes away that part of the value of land which is not the result of the improvements made by the owners. This proposal is based upon the fact that the land itself is not the product of the labor, abstinence, or enterprise of the owner. But since tools and improvements are the results of such labor, abstinence, or enterprise, their values are to be left in possession of the owners. Monopoly profits are excessive above the value of the actual service rendered, and must therefore be prevented by public control; but ordinary profits, in a competitive industry, cannot be permanently in excess of the value of the service, otherwise more competitors would enter the field and reduce them. Where an industry is necessarily a monopoly, like the water, gas, and electric light works of a city, its telephone and street railway system, and possibly the railway and telegraph systems and the mineral deposits of a country, and competition cannot be expected to regulate prices, then the public must regulate them by law.

The case of inherited capital is complicated by its connection with the institution of the family (*see*). Its function is to give permanency and solidarity to that institution, and its social utility depends upon the value of the compact and permanent family as the unit of social organization. But if we leave out of consideration the question of the family, it will, of course, be obvious that inherited

capital is not earned by the one who inherits it. Moreover, the race of life is not an even one when some of the contestants start with a fund of inherited capital while others start with nothing but their bare hands. Looking at the question wholly from the point of view of the rising generation, without regard for the past generation, or the perpetuity of the family interest, it seems unfair that some individuals should be thus handicapped. But it looks different when viewed from the standpoint of the passing generation, and with due regard for the family interest. Granting that a member of the passing generation is earning his income, no one can give a good reason why he should not be allowed to save a part of it and accumulate capital. If he prefers to spend a part of his income in buying tools rather than consumers' goods, it would be absurd to deny him the privilege. If he chooses to give some of his tools away, it would be difficult to give a reason why he should not be permitted to do so. And if he chooses to give them to his children, either before or after his death, the common sense of mankind could not deny him that right. But to admit all this is to sanction the capitalistic system in every essential detail. As between these opposing points of view it is difficult to choose; but the world is actually moving along the line of compromise, that is, along the line of a heavily graduated inheritance tax. There is not the least semblance of socialism in this, since private ownership and management of the means of production are still recognized as normal, and there is not the slightest encroachment upon the domain of private enterprise and initiative.

Is Labor Alone Productive?—The doctrine that labor alone is productive, or that all wealth is produced by labor, may be said to be the corner stone of the structure of socialist theory. That is the doctrine without which there would be and could be no such thing as a socialistic system of thought. The significance and weakness of this doctrine may be shown by the following analogy. In the arid states of the far West there is frequently found soil of excellent quality with abundant stores of plant food, but, moisture being scarce during the greater part of the year, the land is bare of vegetation. When rain falls plants spring abundantly. They seem therefore to depend upon water, as they vanish when water is absent and they appear when water is present. One might therefore be excused for contending that water alone produces vegetation, but it would not be true. If nitrogen, or potash, or phosphorus were absent, vegetation would be just as scarce as when water is absent. Similarly, in an uninhabited wilderness there may be fertile soil, abundance of moisture, stores of minerals, stately forests, and every other physical resource, but no wealth is produced, labor (*see*) alone being absent.

When labor is added to the combination, wealth results. There is therefore some excuse for the conclusion that labor alone is productive, but it would be just as untrue as to say, in the foregoing illustration, that water alone produces vegetation.

Class Consciousness.—Next in importance to the doctrine that labor alone is productive is the doctrine that progress comes through class struggle or class war. Therefore all their authoritative writers, from Karl Marx down to the present time, openly and frankly advocate the class war, and call upon all workingmen everywhere to unite, to become "class conscious," and to view every problem from the class conscious standpoint. Others are less frank in their avowal of this policy, some even profess to repudiate it, but there is scarcely one who could be called a socialist leader who does not appeal directly to class prejudice, or inveigh against the capitalist class. In a certain broad sense, this is a repetition, in a new form, of the old, old struggle between territoriality and class as a basis of social grouping. When the territorial group—that is, the people inhabiting a certain territory—become group conscious, and when the loyalty of this group transcends every other loyalty, then there is a state. When a number of people professing the same religion, or belonging to the same class, become group conscious, and when loyalty to that group transcends every other form of loyalty, then the state is destroyed and church or class becomes the supreme power. That was, in sociological terms, the meaning of the struggle between church and state; and it is also the meaning of this modern struggle between class and territoriality as a basis of the group consciousness and group loyalty. When the laboring classes become more loyal to their own class group than they are to the territorial group known as the state, class will dominate the state as the church did, or came near doing, at one time. Men who have become thoroughly class conscious naturally look with disfavor upon any exhibition of territorial group consciousness. It is not any special abhorrence for war or love for peace which induces socialistic bodies to oppose international war; it is simply their feeling that international war is the wrong kind of war. Class war demands class loyalty. International war requires loyalty to the territorial group called the state, and tends to stimulate and develop it. That, however, tends to make territorial loyalty supreme over class loyalty. Therefore the advocates of the class war could not do otherwise than oppose international war.

Socialism and Anarchism.—In the popular mind socialism is not always sharply distinguished from anarchism, though so far as their programs are concerned they are almost diametrically opposite. That is, the socialist program calls for a great enlargement of the

functions and the power of government, whereas the anarchist program calls for a great curtailment or the complete destruction, of that power, so far at least as it rests upon authority and compulsion. But there is a certain partial justification for this popular confusion. If instead of considering the two programs we consider the attitude of mind of the two groups of reformers, we shall find much in common between them. Both are alike opposed to a situation where one man has power or authority over another. Such a term as wage-slavery, which is a favorite among socialist leaders, is symptomatic of this attitude. Many of the socialist agitators explain that they are not opposed to private property as such, but only to such forms of private property as give one man power over another. It is not, in other words, private property to which they object, but the power of one man over another. To this the anarchist replies, and with irrefutable logic, "There are two sources of this power of one man over another; one is property in the means of production, the other is government. To take away one source of power and to increase the other is only to make matters worse. The socialist, therefore, is only a half-way anarchist." However, as explained above, socialism is a program, and is not an attitude of mind. Therefore it is not to be confused with anarchism; though, if it were an attitude of mind, it would not always be easy to distinguish between the two.

Karl Marx.—The leading personality in the modern socialistic movement is undoubtedly Karl Marx (1818–1883), though his doctrines are only vaguely understood and are generally ignored by the leading present-day socialists. The secret of his influence, however, is not to be found in his economic doctrines, but in his bold and effective advocacy of the class struggle. In this respect he was the voice through which the class hostility engendered by the modern industrial organization was able to express itself, and his name has become the "*In hoc signo vinces*" of the workingmen's class conscious crusade. In his advocacy of the class struggle he was absolutely uncompromising and would tolerate no opposition even from his dearest friends. Because of differences of opinion, he successively repudiated and attacked his different friends and associates, such as Bruno Bauer, Arnold Ruge, even Proudhon under whose influence he had become a socialist, and Lassalle, his greatest rival for the position of leadership. In every contest for supremacy among the revolutionary leaders of his day Marx invariably won the victory, partly because of his striking personality, but mainly because of his more perfect voicing of the sentiments of the class conscious revolutionists.

This class consciousness is the inevitable outcome of the modern joint stock system of own-

ership, under which owners and workers are widely separated, having few opportunities of meeting and acquaintance. Such separation of men into sharply distinct groups, whether the dividing line be a geographical boundary, a racial difference, or a social distinction, invariably produces lack of sympathy and predisposes men toward intergroup warfare. Thus the capitalistic system contains within itself, according to this theory, the seeds of its own destruction. Like certain disease germs in the human body, the capitalistic system in the body politic develops certain antitoxins which will rid the body of capitalism, and capitalism will thus run its course like other diseases. This is a phase of the question upon which capitalists will do well to meditate, though they will probably continue to say, "After us the deluge!"

The other economic doctrines of Marx are: (1) the labor theory of value; (2) the materialistic interpretation of history; (3) the doctrine of evolution through class struggle. Of the first it is only necessary to say that it is not held by a single scientific economist. Of the second it may be said that it has a certain wide acceptance, but it has been expounded with vastly greater insight and learning by such men as Buckle, Comte, and Spencer. The one doctrine which seems likely to stand the test of criticism and experience is the doctrine that social evolution comes through class struggle. The modern capitalistic system is dependent upon large supplies of cheap labor. Therefore the dominant capitalistic interests will always favor policies which encourage the rapid multiplication of cheap laborers, either through natural reproduction or immigration from lower civilizations and less developed countries. This will eventually make the propertyless class the most numerous, and they will then assert their power, either through legal or revolutionary means, and dispossess the capitalists of their capital.

See CAPITAL AND CAPITALIZATION; CHRISTIAN SOCIALISM; COMPETITION; DISTRIBUTION, ECONOMIC; ECONOMIC THEORY, HISTORY OF; FABIAN SOCIALISTS; LABOR; SOCIALISM, STATE; SOCIOLOGY.

References: R. T. Ely, *French and German Socialism* (1883), *Socialism* (1894); J. Rae, *Contemporary Socialism* (3d ed., 1910); J. T. Stoddart, *The New Socialism* (1910); M. Hillquit, *Hist. of Socialism in the U. S.* (1903); K. Marx and F. Engels, *The Communist Manifesto* (1901); K. Marx, *Capital* (1889); F. Engels, *Socialism, Utopian and Scientific* (1892); G. B. Shaw, Ed., *Fabian Essays in Socialism* (1890); W. D. P. Bliss, *A Handbook of Socialism* (1895); E. Vandervelde, *Collectivism and Industrial Revolution* (1904); J. Spargo, *Socialism* (1906); J. Mackaye, *The Economy of Happiness* (1906); J. R. MacDonald, *Socialism and Government* (1907); J. E. Le Rossignol, *Orthodox Socialism* (1907);

E. von Böhm-Bawerk, *Karl Marx and the Close of his System* (1898); A. M. Low, "What in Socialism?" in *North Am. Rev.*, CXCVI, CXCVII (Jan., Feb., 1913).

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SOCIALISM, CHRISTIAN. See **CHRISTIAN SOCIALISM**.

SOCIALISM, MUNICIPAL. Municipal socialism is both a theory of local government and the program of a political party. As a theory of local government it is best defined in the words of Joseph Chamberlain, when Mayor of Birmingham (1874):

The leading idea . . . may be said to be that of a joint stock or coöperative enterprise in which every citizen is a shareholder, and of which the dividends are receivable in the improved health and the increase in the comfort and happiness of the community. . . . The primary object of all concerned is not so much to lessen expenditure, as to spend most wisely.

The International Socialist party was at first opposed to municipal socialism as a political doctrine, just as it was opposed to co-operation, and trade unionism, and every non-political and merely local form of collective action. Eventually, however, the International Socialist Congress, held at Paris in 1900, formally resolved that "the term Municipal Socialism does not designate a peculiar form of socialism, but simply the application of general socialist principles to a special sphere of political action." Thus the ideal of a group of English middle-class municipal reformers was officially incorporated into the political program of the international labor party. See **LOCAL GOVERNMENT; MUNICIPAL OWNERSHIP; SOCIALISM**. References: W. G. Towler, *Socialism in Local Government* (1909); F. W. Jowett, *Socialism and the City* (1907); E. J. Levey, "Municipal Socialism" in *Pol. Sci. Quart.*, XXIV (1909), 23-56; National Civic Federation, *Municipal and Private Operation of Public Utilities* (1907). A. N. H.

SOCIALISM, STATE. Distinguished from **Socialism**.—The term state socialism, like strict socialism itself, is somewhat difficult to define. It resembles middle-of-the-road socialism in that it implies a considerable extension of the functions of the state, particularly in two directions: first, in the direction of state ownership and operation of many large business interests, such as transportation systems and, in general, all those enterprises commonly known as public utilities; second, in the direction of assuming greater responsibility for the care of the poor. In this latter direction it is commonly urged that the state should provide universal old age pensions, insurance against accidents and unemployment, and sometimes even the endowment of motherhood. It differs from middle-of-the-road socialism in that it postulates nothing as to the nature

of private property in instruments of production, and does not condemn interest, or profits *per se*. It aims to cut off all sources of excessive profits by bringing all natural monopolies under state ownership, and to aid by means of pensions and other public funds those who are beaten in the competitive struggle. Thus the state is to be the paternal agency for redressing the inequalities resulting from an unrestricted competition.

Activities of the Present State.—Every modern state is now engaged in activities of both kinds. In the direction of public ownership we have the post office, which is everywhere a public affair. In this country we have the departments of agriculture, both federal and state, carrying on elaborate experiments and explorations in the field of agricultural science, and distributing literature, seeds, etc. We have also our national forest reserves, a lighthouse service, and a multitude of other enterprises of a public nature, while many of the leading countries own and operate their railroads. Municipalities commonly own their water works and some other public utilities. This, however, is sometimes distinguished from state socialism by the name of municipal socialism, though there is no difference in principle. But enterprises of this kind, as now carried on by modern states, lack certain characteristics common to every socialistic scheme. They are not usually undertaken because of belief in any formula respecting the nature of capital, nor are they stimulated by spirit of class war. They do not indicate any general opposition to the competitive system, because there is and can be no effective competition in these enterprises. The choice in these cases is not between public ownership and competition, but between public and private monopoly. Since these industries must necessarily be monopolies any way, it argues no general disapproval of competition when they are owned by the public.

In the direction of aiding those who are beaten in the competitive struggle we have a multitude of provisions for the care of the poor and destitute, employment bureaus and other agencies to help the unemployed to find work, special training schools to fit the unemployable to become employable. It is only necessary to carry government enterprise far enough in these two directions and we shall have what is sometimes called state socialism. Just where the dividing line is beyond which lies state socialism it is not easy to say. In general, it may be said that so long as the policy of the government is primarily determined in the interest of those who are capable of taking care of themselves in the stress of economic competition, and only secondarily in the interest of those who are unsuccessful in that struggle, the line has not been crossed which distinguishes a socialistic from an individualistic state. But that line is crossed

whenever the policy of the state is primarily directed in the interests of those who, in the economic struggle, would be unsuccessful.

Economic and Political Competition.—By economic competition is meant: first, rivalry in production, or in the performance of service; second, the appraisal of the product of one's labor or the value of one's service and the payment for it by the one who receives it, rather than by the public in general by a vote, or by the agents of government. They succeed best who are able to produce the most, or who are able to render the greatest service. Under political competition the value of one's product or service is appraised by the public or a public official, and paid for out of the public treasury. So long as economic competition remains the dominant and characteristic method of achieving success, the state is not a socialistic state. But when the dominant and characteristic method is political as opposed to economic competition, it may be said to be a socialistic state.

Paternalism.—Another aspect of state socialism, which helps to distinguish it from socialism of the common type, is its paternalistic character. It is a policy carried out *for* the laboring classes, but not *by* them. The distinction seems clearer, however, than it really is. In the Panama Canal Zone there is an admirable system of administration carried out in the interest of the workers, but it partakes of the nature of a benevolent despotism rather than of democratic socialism. Here the distinction seems clear. It may be state socialism but it certainly is not socialism. But if the Canal Zone were a self-governing state, controlled as other democratic states are by representative bodies and elected officials chosen by the people who live there, and if these officials were to vote to do the same things as are now being done, it is not certain whether it would be called socialism or not. To some the government would seem to be something apart from and above the people for whom the various benevolent enterprises were carried out, just as the government of the United States is now regarded by the dissatisfied elements. They would call it a paternalistic government, and its enterprises they would call state socialism. To others the government would seem to be a thing of the people, as our own government now seems to most of its loyal citizens. They would then call those enterprises socialistic.

Opportunity vs. Paternal Care.—One important distinction, commonly overlooked, is between a government policy which, like divine Providence, aims to help men to help themselves, and a policy which takes care of those who can not take care of themselves. So long as the efforts of the government are directed toward creating opportunities for the strong as well as the weak, opportunities open to all

who are capable of making use of them, and toward creating a fair field for competition with no favors to anyone, its efforts can not properly be called socialistic from any point of view. But when its efforts are directed toward interfering in the struggle and giving special help to those who, unaided, would fail, such efforts may be called socialistic. The public school system, for example, creates opportunities for the strong as well as the weak. In fact, the intellectually capable are able to use the educational opportunities to better advantage than the intellectually incapable. The state does not educate any one. It merely provides opportunities. The individual must educate himself. They who have the capacity to be educated and the diligence to apply themselves are benefited by a system of popular education. They who lack either the capacity or the diligence receive little or no benefit. They have a more efficient body of competitors provided by the state, and may thus be positively injured by the public school system. Therefore the public school system can not be called a socialistic enterprise. But free soup houses, provided at public expense, or any other enterprises by means of which men who fail in competition are enabled to escape the results of their failure, become socialistic. Any scheme for the distribution of wealth which interferes by political authority with the normal processes of free and voluntary exchange of services is socialistic.

Essential Distinctions.—This brings us to the essence of the whole question. The free and voluntary exchange of services is one way of determining the distribution of wealth. Another way is by political action or general laws. Any extension of the functions of the state which leaves the distribution of wealth to be determined by the free and voluntary exchange of services, or which merely removes hindrances to such a free and voluntary exchange, is not socialistic. Under this system, the individual's success depends primarily upon his efficiency in economic competition, that is, upon his ability to perform services which somebody wants individually and is willing to pay for out of his own individual pocket. But any extension of the functions of the state which attempts to distribute wealth in any other way than by the free and voluntary exchange of services among individuals, is socialistic. Under such a system, the individual's success depends, not upon his ability to perform a service which some one is willing to pay for out of his own pocket, but upon his ability to persuade the mass of men to vote something out of the public treasury. In other words, the individual's success depends upon his efficiency in the political rather than the economic form of competition. When under this arrangement government is conceived of as something apart from and above the workers, it is called state socialism. When

it is conceived of as something of, for, and by the workers, it is called socialism.

See COMPETITION; ECONOMIC THEORY, HISTORY OF; FABIAN SOCIALISTS; SOCIALISM.

References: R. T. Ely, *French and German Socialism* (1883); J. Rae, *Contemporary Socialism* (3d ed., 1901); J. T. Soddart, *The New Socialism* (1910); M. Hillquit, *Hist. of Socialism in U. S.* (1903); W. D. P. Bliss, *Handbook of Socialism* (1895).

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SOCIALIST LABOR PARTY. This party first appeared in the field of national politics with a presidential ticket in 1892. For more than a decade it had been the dominant factor in the socialist movement in America, and as a socialist organization it was known by this name as early as 1877. It represented an economic rather than a political movement in its earlier years. In a convention held in New York on August 28, 1892, Simon Wing, of Massachusetts, was nominated for President and Charles H. Matchette, of New York, for Vice-President. The party declared for a reduction in the hours of labor; for national ownership of railroads, canals, telegraphs, telephones, and all means of transportation and communication; for municipal ownership of waterworks and lighting plants; the recovery of land grants by the United States; the exclusive right of the United States to issue money; progressive income and inheritance taxes; compulsory free education; employers' liability laws; the reduction of the law-making body to a single chamber; the direct vote and a secret ballot in all elections, with universal suffrage, regardless of race, creed, or sex; all public officers to be subject to the recall; the referendum in law-making; and also it favored the abolition of the presidency and the substitution therefor of an elective executive board subject to the recall by the House of Representatives.

The party in 1892 polled 21,164 votes, and it has had a presidential ticket in the field in every campaign since, substantially repeating in each campaign its political platform, calling for collective ownership—that both the machinery of government and the machinery of production and distribution be controlled by the people in common. The party attributes to private property in the natural sources of production and in the instruments of labor the cause of all economic ills, and it calls on all laborers to unite into “a class conscious body” to take possession of the public powers—the land and all the means of production and transportation—and thus to substitute the co-operative commonwealth for the “present state of planless production, industrial war, and social disorder.”

In 1896 the party polled 36,454 votes for Charles H. Mutchette for President. In a convention at Rochester, New York, January 27,

1900, the party decided to make overtures for union to the Social Democratic party and a committee on “Social Union” was appointed for this purpose. At the same convention it was decided, as the best means of promoting union, to put a presidential ticket in the field, and Job Harriman, of California, was nominated for President and Max Hayes, of Ohio, for Vice-President. In a convention of the Social Democratic party at Indianapolis March 6, 1900, the union of these two parties was agreed to. The Harriman and Hayes ticket was withdrawn and the united Socialists, under the name of the Social Democratic party, nominated Eugene V. Debs, of Indiana, a Social Democrat, for President, and Job Harriman of California, of the Socialist Labor party, for Vice-President. The great majority of the Socialist Labor party favored the union and supported this ticket but a minority refused to do so, and in a convention in New York (June 2-8, 1900) they retained the old name and organization and nominated Joseph F. Maloney, of Massachusetts, for President, and Valentine Rimmel, of Pennsylvania, for Vice-President, in opposition to the Socialist following of Debs and Harriman. These dissenting Socialists, however, cast but 32,751 votes for their candidates in that year, while in 1898 the Socialist Labor party had received as many as 82,204 votes in eighteen states. In 1904 the Socialist Labor vote increased somewhat—to 33,724 votes for Charles H. Corrigan for President—but in 1908 the vote for their presidential candidate, August Gillhaus, of New York, was only 13,825. The party had nominated, in 1908, Martin R. Preston of Nevada for President, but, as Preston was a convict in the Nevada penitentiary and was, moreover, ineligible to the presidency, being under the constitutional age, Gillhaus was subsequently named as “a candidate by proxy.” The decline in the party's vote does not indicate a decline in socialistic sentiment. The great body of voting socialists in America in 1900 supported the Social Democratic party (*see*) and have since supported the later and larger Socialist party (*see*). The Separatists among the Socialists since 1900, who have kept up the name and organization of the “Socialist Labor” party, were, chiefly, the followers of Daniel De Leon, and they represent a radical and extreme type of industrial socialism and are in stout opposition to trades unions. These radical socialists hold, also, to the socialism of Karl Marx, urging that the revolution in government and politics must be coupled with a revolution in industry. They oppose the larger Socialist party because that party holds that only the political reorganization is sufficient, ignoring the necessity of industrial revolution and the economic organization of labor. The difference between the two parties is one of means to a common end—a difference as to whether the reorganization of industrial so-

ciety should accompany or follow the triumph of political socialism. The Socialist Labor party is organized in "sections," or chapters, like a brotherhood, in thirty states. Any seven persons may form a "section," provided they acknowledge the platform and constitution of the party. Its members have been chiefly of foreign birth, unacquainted with the customs, habits, and language of America, perhaps not more than ten per cent of the party being native Americans. In 1912 the party conducted its eighth presidential campaign, nominating Arthur E. Reimer for President, and August Gillhaus for Vice-President, with a platform calling for "industrial self-government of the workers, for the workers, by the workers." It polled 29,072 votes. The party tends toward the more radical attitude of Syndicalism (*see*), or the Industrial Workers of the World.

See LABOR PARTIES; SOCIALISM; SOCIALISM, MUNICIPAL; SOCIALISM, STATE; SOCIALIST PARTY; SYNDICALISM.

References: R. T. Ely, *Labor Movement in America* (1905); M. Hillquit, *Hist. of Socialism in U. S.* (1910); A. Gillhaus, "Socialist Labor Party's Appeal" in *Independent*, LXV (1908), 889-892; A. Rosenthal, *Differences between the Socialist Party and Socialist Labor Party* (1908).
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SOCIALIST PARTY. The Socialist party in the United States was the outcome of a union in 1900, between the Social Democratic party (*see*) and the greater part of the Socialist Labor party (*see*). In 1900 the united socialists took the name of the Social Democratic party, but since that year it has been known as merely the Socialist party and under its organization and direction the greater part of the agitation and growth of political party socialism has been conducted. In its national platform of 1908 the party declared itself the party of the working class, and bewailed the closing of factories, mills and mines, while millions of willing workers were forced into idleness and starvation. It opposes the private trusts that are "the inevitable result of individual competition," and seeks one all-embracing public trust, of the people, by the people, and for the people. It arraigns the private trusts as "dictating the terms on which we may live," the courts, as "threatening the rights of the workers," the ruling classes, as "in conspiracy against organized labor," and Congress and the executive as those "from whom the working classes may expect no remedy." Courts, legislatures, and executive offices must be taken from the control of the exploiting classes who use these agencies against the toilers. The industrial demands of the party include: (1) immediate government relief for the unemployed by public works, by reforesting cut-over and waste lands, reclamation of swamps, and by loans of money with-

out interest to states and cities for public improvements; (2) collective ownership of telegraphs, railroads, telephones, steamship lines, and other means of transportation and communication; (3) collective ownership of all industries in which competition has ceased to exist; (4) the extension of the public domain to include mines, quarries, oil wells, forests, and water power.

The party's political demands call for the extension of inheritance taxes; the graduated income tax; equal suffrage for men and women; the initiative and referendum; the abolition of the United States Senate; the amendment of the Constitution by a majority vote; the election of judges for short terms; and the abolition of the judicial power usurped by the Supreme Court to declare acts of Congress null and void—national laws to be abrogated only by act of Congress or by a referendum vote.

In 1900 the candidates of the united Socialists, Debs and Harriman, received 94,768 votes. In 1904 the Socialist party nominated Eugene V. Debs of Indiana, for President, and Benjamin Hanford, of New York for Vice-President, and polled 402,460 votes. In 1908 the party again nominated Debs and Hanford and polled 420,820 votes. In the state and congressional elections in 1910, the Socialist vote was materially increased, the returns showing 605,000 votes with gains in every state in the Union. The party elected thirteen members of the legislature in Wisconsin and one each in Massachusetts, Pennsylvania, Minnesota, and North Dakota, while for the first time a party Socialist was elected to Congress, in the person of Victor L. Berger, of Milwaukee, who represented the fifth Wisconsin congressional district. Mr. Berger, a representative Socialist, has urged in Congress resolutions proposing the abolition of the United States Senate, a convention for the revision of the United States Constitution, and a system of old age pensions. In the fall of 1911 the party carried Flint, Michigan; Butte, Montana; Berkeley, California; and elected councilmen in a large number of other cities. It now claims 600 elective officers, including 32 mayors, and 18 legislators in five states. In 1912 the party again nominated Debs for President, with Emil Seidel, ex-mayor of Milwaukee, for Vice-President, and this party ticket received 848,296 votes. Mr. Hillquit, the historian of the party, claims that the laboring classes "are coming more and more into its ranks every year, every month, and every day" (Report on the National Convention, May 12, 1912).

The party organization embraces over 125,000 members who pay dues of twenty-five cents a month for an active socialist propaganda, which is carried on, between campaigns as well as in election years, by means of agents, speakers, mass meetings, parades, placards, and the distribution of leaflets and petition. The

Appeal to Reason, Girard, Kansas, the *New York Call*, the *Chicago Daily Socialist* and the *Milwaukee Leader* are the chief newspaper organs of the party. The party headquarters are in charge of the national secretary, John M. Work, at 205 West Washington Street, Chicago, Illinois.

See SOCIALISM; SOCIALISM, STATE.

References: J. Spargo, *Socialists* (1908); R. Hunter, *Socialists at Work* (1908), "Socialist Party in Present Campaign" in *Review of Reviews*, XXXVII (1908), 293-299; "The Socialist Platform" in *Outlook*, LXXXIX (1908), 974-976; *Am. Year Book*, 1910, 638, *ibid*, 1911, 78, 343, *ibid*, 1912, 27-29; Morris Hillquit, *History of Socialism in the U. S* (1910).

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SOCIETIES, LEGAL STATUS OF. Right of Association.—In the United States no effort has ever been made to restrict the right of association for any purpose not unlawful, save in the case of military organizations, which in most states are allowed to exist only under authority of the state. It is generally held that laws, enacted by the states, prohibiting the formation of unlicensed associations for military purposes, are not in contravention of the state constitutions which guaranty the right to bear arms, or of the corresponding provision found in the Second Amendment to the Constitution of the United States. In like manner many of the states prohibit the organization or employment, without authority of law, of bodies of armed detectives or other men to be used as private guards or police in protecting property against the disorders consequent upon labor troubles or other uprisings, or for the purpose of suppressing strikes. (For an example see Idaho Constitution, Art. XIV, § 6.)

The right of peaceable assembly, which is but supplementary to the right of association, is specifically secured to the people by the constitutions of the United States (Amendment I) and of many of the several states. It is recognized, however, that these constitutional provisions do not create, but merely confirm, the common law right of assembly.

Legal Status of Associations.—The incorporated association is a juristic person separate and distinct from its members; and as such person can do all acts that are within the provisions of its charter, which is the measure of the powers granted to it by the state. In its corporate capacity it can make contracts and hold property, sue and be sued. Its internal regulations, governing the manner of the exercise of its corporate powers by its members, are ordinarily termed by-laws. In these respects the legal status of the incorporated association does not differ materially from that of the commercial corporation.

Voluntary or unincorporated associations, not possessing any juristic personality apart

from their members, occupy an anomalous position in the law, and their legal status is by no means well defined. Generally speaking, the law does not recognize the unity of the association, but sees only the individual members composing it. They must contract as an aggregation of individuals, and they must sue and be sued as individuals. Any property of the association must vest in its individual members, or must be held by trustees for them. The officers of such an association or club can act for it only to the extent to which they are authorized, under the general principles of the law of agency, to act as agents of the members as individual principals.

Community Rights.—The rights of the associates among themselves are worked out in accordance with the contract of association, found in the articles of association, or constitution, and in those other regulations, intended to be of less permanence and importance, which are usually called by-laws.

Every person, by his mere act of becoming a member of the association, agrees that his community rights shall be determined in accordance with the provisions of its constitution and by-laws. Consequently, he can appeal to the law of the land for relief against the action of his associates only when he is denied those rights secured to him under the conventional laws of the association. Thus if a member be expelled from an association for a cause recognized under the rules, after procedure fairly taken in accordance with those rules, he cannot have the action of his associates, however unjust it may be, reviewed in a court of law. But if the expulsion was arbitrary, and not for any cause set forth in the rules of the association, or if the method of procedure provided by such rules was not followed in good faith, the injured member may have relief in a court of equity, which will enjoin the associates from giving effect to such wrongful expulsion (*Otto vs. Journeymen Tailors' Union*, 75 Cal. 308).

In no case will a court of equity take jurisdiction of a dispute between an association and any of its members unless the disgruntled members can show that they have exhausted all means of redress provided by the rules of the association (*Levy vs. Magnolia Lodge*, 110 Cal. 297). Furthermore it should be noted that under no circumstances will a court take cognizance of the complaint of an expelled member when membership gives no right or privilege having value in the eyes of the law, but merely an opportunity of associating with the other members. Thus a court would not concern itself with the wrongs of a person excluded from a whist club which possessed no property and collected no dues, however arbitrary and reprehensible might be the conduct of the other members.

Contests. The same principle is held to apply to disputes among members of committees

of political parties when membership upon such committees gives no valuable right but only personal satisfaction and political influence, which, in the eyes of the law, are not valuable. So when each of two contesting committees of a political party claims the right to exercise the powers conferred by the party organization upon the regular committee, a court will not consider their differences so long as there is a central committee or other superior body within the party to which the contending factions may appeal. Nor will the correctness of the decision of such a central committee be reviewed by a court of law unless fraud be proved.

See ASSEMBLY, RIGHT OF; BILLS OF RIGHTS; CHURCH AND STATE IN AMERICA; CORPORATION CHARTERS; CORPORATION, PUBLIC; FREEDOM OF SPEECH AND THE PRESS; INFLUENCE IN GOVERNMENT; LABOR, FREEDOM OF; LABOR ORGANIZATIONS; LIBERTY, LEGAL SIGNIFICANCE OF; PRIVILEGES AND IMMUNITIES; RAILROAD ASSOCIATIONS.

References: "Associations" in *Cyclopædia of Law and Procedure*, IV (1902), 299-316; *Am. and English Encyclopædia of Law* (2d ed., 1903), XXV, 1129-1143; E. Freund, *Police Power* (1904), 514-522; James Kent, *Commentaries* (12th ed., 1873), II, 268 *et seq.*; S. E. Baldwin, "History of the Law of Private Corporations in the Colonies and States" in *Anglo-American Legal Essays*, III (1909), 236-255; *United States vs. Cruikshank*, 92 *U. S.* 542; *Presser vs. Illinois*, 116 *U. S.* 252; *Lawson vs. Héwell*, 118 *Cal.* 613; *Otto vs. Journeymen Tailors' Union*, 75 *Cal.* 308; *Levy vs. Magnolia Lodge*, 110 *Cal.* 297; *Ex. Com. vs. Wetzel County Court*, 68 *W. Va.* 113.

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SOCIETY. Society originally meant companionship, converse, association. Broadly considered, however, it signifies the body of individuals who associate and also the association itself, the relations which bind the asso-

ciating individuals together. The word has not, necessarily, a political significance. The state is a society, but so, too, is the family. So are the members of a university or of a church. Every individual belongs to many of these particular societies and also to society in general, which includes every human being. No man is without relation to every other man. All human relations and all collective activities of mankind are embraced in the term society.

Time and effort have been wasted in trying to account for the origin of society. It developed with, and is inherent in, the human race. As soon as there were two persons having anything to do with each other there was society and they were society. This, however, is not stating the reason for its existence but merely the fact that it does exist. The inevitable relation of the individual to the community has been variously described in so-called theories of society. The *monistic* theory is that individuals have no independent existence, but owe everything they are and have to society. The *monadistic* theory, going to the other extreme, makes society a mere aggregation of individuals without any unity. The *dualistic* or mechanical theory, a compromise between the two foregoing, maintains that there is both an individual and a community life. What we may call the *chemical* theory holds that social life is an entirely new product, evolved out of individual lives. Finally the *organic* theory makes the individual in society analogous to the cell in the living organism. Every of these views is in part sound. Society is individuals, dealing perforce with one another, viewed in the collective aspect.

See ORGANIC THEORY OF THE STATE; SOCIOLOGY.

References: F. H. Giddings, *Principles of Sociology* (1896), 3, 4; J. S. Mackenzie, *Intro. to Social Philosophy* (2d ed., 1895), 150-155.

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SOCIOLOGY

Definitions.—General sociology is the study of the conditions, physical and psychical, elements, forms, forces, processes, results (at given stages), and implications of human association. Special sociology ("applied sociology," "social technology," "Sozialpolitik") is procedure on the basis of a presupposed general sociology, particularly upon the presumption of certain ascertained social values and corresponding purposes, to work out feasible programs for social coöperation which will assure progress toward attainment of the purposes. It will be convenient to amplify these descriptions by means, first, of a brief historical survey, and second, of further analysis.

History.—One of the least contested conventionalities of sociology is that Auguste Comte was its founder (*Philosophic Positive*, 6 vols., 1830-1842). It does not detract from Comte's merit, while it partially explains the sparse growth of sociology for a half century after his first planting, to point out that a tedious work of clearing the ground was necessary before the kind of seed sown by Comte could be fruitful. It is instructive to recall certain almost forgotten steps in the experience of bringing soil fit for the growth of modern social science under cultivation.

The Civic Idea.—The apogee of the speculative method of interpreting social phenomena

was marked by Hegel's lectures on the "Philosophy of History" (1823-1827). The final of Hegel's social philosophy is the "synthesis"—"the state is reason at its highest power." An unfinished century of practical politics has meanwhile proved, not by dialectics but by its diplomacies, its international law, its Hague Tribunal, its arbitration treaties, and its industrial and social developments, that the state is not reason at its highest power. Some of Hegel's own contemporaries began to be sceptical of the Hegelian formulation of the congenital German presumption. Evidence was already visible that both power and reason existed in the world above and beyond the state. Accordingly, men began to reconsider the question, what is the state. Almost a generation after Hegel had pressed his method to its self-contradiction in drawing the deadline of human development at the boundaries of the state, challenge of this arbitrariness first took its modern form. With or without the Hegelian logic, the question would inevitably have elicited answers, sooner or later, in terms of what the state is not. In fact, at the middle of the century, a number of men in unison, but with little if any knowledge of one another except in one or two instances, uttered virtually the same answer: "The state is not society. When then is society?" This question in effect opened up from a new direction the whole field of inquiry since occupied by the sociologists. There could be no development of the researches which Comte demanded till the minds of many men were fertilized by desire for objective knowledge of the social reality. At the same time, it would be provincial and preposterous for the sociologists to claim that they alone have made the discoveries with which sociology is immediately concerned. All human experience, and all social science as interpretation of that experience have coöperated in reaching perceptions which it is now the sociologists' division of labor to formulate, to systematize and to evaluate as means of more penetrating interpretation of experience. In other words, the relation between general sociology and the social sciences as a whole bears close resemblances to the relation between historical methodology, as represented by Bernheim for instance, and the historical sciences in particular.

Social Idea.—Although the term "society" (*Gesellschaft*) is not a modern invention, it was not until the middle of the nineteenth century that serious attempts were made to fashion that term into a tool of scientific precision. The names of Ahrens (*Cours du Droit Naturel*, 1839; *Organische Staatslehre*, 1850; *Rechtsphilosophie*, 4th ed., 1852), Von Mohl (*Geschichte und Literatur der Staatswissenschaften*, 1855) and Lorenz von Stein (*Der Socialismus und Kommunismus des heutigen Frankreichs*, 2d. ed., 1848) may be selected to represent the mid-century effort to this end.

Under the general title, *Civic Sciences and Societary Sciences*, Von Mohl sketched the fortunes of the concept "society" previous to his time, and attempted to show the need of a system of societary sciences. When the insurgency which was latent in the societary conception had reached expression in the group referred to, the principal variant from the prevalent orthodoxy was distinct affirmation of a *somewhat* over and above the state, corresponding to the term "society." The problem then was to analyze the concepts "state" and "society" so as to determine their relation to each other. The success of this mid-century outreaching for a definition of "society" which would be a means of more precisely determining the state was dubious. One of the reasons was to be found in an association carried over from immemorial tradition of the state, and transferred in kind as a preconception of "society." In brief, as the state was thought of in a mystical fashion as a power independent of persons, superior to persons, and transcendent over persons, so the initial attempts to comprehend "society" did not untrammel themselves from a parallel mysticism. Certain obvious facts were observed and noted about spheres of human interests which were not coterminous with the realm of the state. At this stage of interpretation a certain type of *spatial* conception was the peculiar factor of unreality. "Sphere," "area," "intermediate life phenomena," and the like are phrases which, as the context conclusively shows, connoted *location* as one of the chief stigmata of "society" in the same sense in which it was attributed to the state. "Society," like the state, was *somewhere*, the two *somewheres* not coinciding in position; and the problem was primarily to mark their stations.

Mysticism in Early Theory.—It must be admitted that these propositions do not account for everything contained in theorizings about state and society of which they are affirmed. On the contrary, the main difficulty in discovering the clue to differences between earlier and later conceptions of state and society is that in so large a part of their concrete contents they look identical. It is only when we probe down to these antecedent notions that we find radical variation. Thus, Von Mohl posits three cardinal human "conditions" (*Zustände*), which appear to figure in his mind as intersecting planes of human life, (and yet, by definition, not human life at all), or perhaps more nearly as interpenetrating nebulae of different composition. In the first place, there is the "area" of the "individual personality," or "the great number of the particular personalities existing side by side in time and space, and their relationships to like personalities." In the second place, there is the area of the state, or "an organism of arrangements which in each case unites a number of persons living together in a limited space

into a unity with a total will, a total energy, and pursuing common purposes." In the third place, there is "society," i. e., a totality of associations "which can be located neither in the life-circle of the separate individuals nor in that of the state" (loc. cit., 98). Referring to this third category Von Mohl further specifies:

These conditions are differentiated from the life of the individuals essentially in this respect, that in the latter the central point always is the egotistic purpose (*Selbstzweck*) of a single person, and every thing may be considered merely in connection with the same. In the former, on the contrary, a considerable collection of persons is at the same time under corresponding influence of a common cause, and thus moved to community action. The essence of the individual life is selfish reference to itself. The essence of these spontaneous associations is extension and community.

In a note, Von Mohl exposes the futility of his analysis more effectively than it could be done by a critic. He refers to the possible question, May there not, besides these three relationships of men to men, be others, and if that is the case, is it not necessary, in order to discover the full truth, to investigate all of these at the same time? To this he replies:

Undoubtedly there are, along with these three, other relationships of men to men, and among these many that are important: for instance, the family, the tribe, the associations of states; yet for the present purpose it is enough to investigate the three, *because the others do not contribute to the understanding of the nature of society and of the state in themselves, and of their relationships to one another. It follows that taking them into account would merely confuse our survey and insight.*

Proposed Societary Sciences.—Although political philosophy had arrived at a strong sense of the necessity of a social philosophy, its exclusions as thus indicated show that it was still a long way from a clue to an objective method of social interpretation. Nevertheless, Von Mohl proceeds to develop an intricate scheme of "societary sciences," to be worked out in close parallelism with the civic sciences as at that time defined. This whole mid-century movement, under the influence of a partially completed discovery that in addition to the state there are outlying human relationships not yet interpreted, marked an important advance toward positive social philosophy. It emphasized a need, although it did not accomplish much toward satisfying the demand.

The immediate effects of these groping social interpretations upon the methodology of the social sciences are not easy to trace. For nearly a generation after the Ahrens-Von Mohl movement there was little to indicate vitality in the suggestion of "societary science." In 1874, for example, Roscher declared that he was not impressed with the methodological importance of Von Mohl's proposals.

Actual Beginnings of Sociology.—Roscher undoubtedly voiced the impression of the majority of his generation that, so far as serious

science was concerned, the societary suggestion was a closed incident. But a new generation was already on the stage, and even the older generation had not yet uttered its last word on the subject of society. The *Verein für Sozialpolitik* was born before Roscher's book appeared. That organization proved to be, in spirit and in practice if not as profoundly as might be in confession, a vindication of the social idea. Almost at the same moment with the publication of Roscher's book, Schäffle was writing the preface of *Bau und Leben des Socialen Körpers* (1875), and Spencer was delivering the first installment of *Principles of Sociology* (1874-77). Society had been rediscovered by a publicist whom Roscher himself had called "certainly one of the foremost economists of our time" and by a cosmic philosopher who was doing more than any contemporary to advise the world of the significance of Charles Darwin's generalizations. Both of these writers were ridiculed and abused, but the opposition attacked non-essentials and was blind to that part of their work which marked an achievement in objective apprehension of human reality. Both of them overworked biological analogies as vehicles for exposition of the interconnections between human facts; but all their crudities of method were outweighed by their service in visualizing literal relations between different human activities. Schäffle and Spencer had outgrown the obsessions which credited state and society with "spheres" set off in mystical ways from persons. They had advanced to the perception that human experience, from earliest to latest, is a function of innumerable group relationships. Their problem then was to make out the different orders of groups which are visible in human experience, and to define the typical forms of reciprocal influence which these groups exhibit. We may characterize the Schäffle-Spencer stage of societary interpretation as assured of the continuity of human relationships, of interconnections of personal actions and reactions, from the minutest or most casual human group out to the most comprehensive and permanent, as having made a creditable beginning of analysing the social groups and their interactions, from family to humanity, and (perhaps most significant of all) as having in principle suspended all favoritism toward particular types of groups. The clue which their analysis followed was that society is a plexus of personal reactions mediated through institutions or groups. One among these reaction-exchanges was the state; but the state was no longer presumed to be in the last analysis of a radically different origin, office or essence from any other group in the system. It simply had to pass muster with the other groups, on the merits or the demerits of its performance.

It would be imprudent to allege that the sociologists since the Schäffle-Spencer period

have discovered anything which was not implicitly in the two works named. Purposely waiving that issue, we need assert only that subsequent observations of human phenomena have resulted in reconstructions which contrast sharply in form, in details of content, and in effect upon mental and moral attitude, with the sociological interpretations of that earlier date. This proposition is true in different particulars in the variations of sociological theory peculiar to different countries. The limits of this article permit illustration of the divergence in a single case only.

English Attitude toward Sociology.—Until quite recently sociology has languished in England, while it has flourished in the United States. One of the decisive reasons for the English side of this contrast was a diversion created by an antecedent question which arrested the development of purely sociological theory. It seems paradoxical that the chief popularizer of the evolutionary idea should have proved a hindrance to the growth of constructive sociology. In England, at least, that was the case in a high degree in this way—evolutionism, and particularly Spencer's version of evolution, was understood to make for the conclusion that modification of the workings of physical laws by human volition is impossible. It is an open question whether Spencer was more sinned against or sinning in the creation of this impression. At all events, sociology for a time almost disappeared in England, while the mental attitude which obstructed sociological progress found its support in a conception of evolution supposed to have been sponsored by Spencer. If the last word of science was that evolutionary human improvement is a delusion, that men must wait for physical laws automatically to work out all the human salvation that is possible, no sufficient motive was left for attempting to lay a scientific foundation for ameliorative effort. Anything in excess of mere historical review of past evolution would be futile. It came about, therefore, that sociological initiative in England during the past thirty years has tended predominantly either into superficial empiries, or into the field of "eugenics." This latter development is quite in character, because in the phenomena of breeding, if anywhere, facts may be ascertained and inferences drawn with a minimum of shock to the preconception that the conditions concerned are exclusively physical. The most convincing picture of this situation may be found in the little book *Social Evolution and Political Theory* (1911) by Hobhouse, one of the few men in England whose sociology has not remained insular.

American Attitude toward Sociology.—The case in the United States is very different. In 1883, Lester F. Ward, a botanist, qualified as Spencer never was by first-hand study of organic phenomena to speak as an evolution-

ist, published in two volumes the work *Dynamic Sociology*. It performed the service of convincing a generation of budding American sociologists that the suspected conflict between evolution and human effort was a false issue. The fictitious dilemma between evolution and enterprise has consequently never visibly embarrassed sociological thinking in this country. In Ward's preface was this declaration of independence:

Just as Comte could complain that the philosophy of Hobbes, Locke and Voltaire was negative, so it may now be maintained that the school of Mill, Spencer and Fiske is also negative. From the purely statical stage of the former the latter has only advanced to the passively dynamic stage, which recognizes only the changes wrought by Nature unassisted by Art; but before the science of society can be truly founded another advance must be made, and the actively dynamic stage reached, in which social phenomena shall be contemplated as capable of intelligent control by society itself in its own interest.

Estimates of American Sociology.—Contempt for sociology has often been expressed in Europe in the phrase, "The American Science." The slur is an ungraciously masked tribute. While sociological work of the first rank has been done in Europe during the past quarter century, the most effective work has been done in the United States. This has been due less to the exceptional originality of detached individual achievements, than to actual though not formal division of labor carried on with progressive consciousness of common purpose. An increasing number of scholars prompted by fundamentally identical interests have devoted themselves to different phases of pending problems within the range indicated by our description of general sociology. They have subjected one another's work to searching and stimulating criticism. There have been few instances in the history of science in which the circumstances were more favorable to positive results. No vested orthodoxy existed which could prejudice conclusions. By tacit consent the work to be done was undertaken as search into relationships which had never been fairly explored. The very fact that many men entered upon this search from almost as many different approaches insured multiple checks upon the returns. The outcome up to date would doubtless be variously appraised by different participants in this virtual coöperation, and it would be impossible to obtain a consensus about the relative importance of different pieces of work which have been positive or negative factors in reaching the present status of the inquiry. Without attempting to pass upon details of this sort, we venture to describe that which is today common to American workers in the field of general sociology as follows.

Present Outlook.—We have arrived at ability to state fundamental problems of sociology in substantially this form, viz.: Under what categories is it necessary to think human experi-

ence, if it is to be presented objectively, and what are the typical relationships between activities assembled under the several categories? Without comment on the magnitude of this achievement in itself, as a means of controlling and coördinating investigation, it must be added that the first formal answer which we now give to the question is also of inestimable methodological importance, *viz.*: we now say that human experience is chiefly an affair of *associatings* between persons, in their copings with the physical and psychical conditions to which they are subject. That is, presupposing the physical factors and also the consciousness factors into which personality may be resolved (both of which groups of factors are in the first instance problems not of general sociology at all but of other disciplines), "experience," which presents the problems of sociology, is the phenomena of the lives of persons in the course of developing and using their endowment as sentient beings. Experience then is never strictly solipsistic; it is always social. Accordingly, to speak after the manner of the Schoolmen, the categories "experience" and "association" are to each other as substance and attribute. That is, they are interchangeable for certain alternative purposes. The fundamental problem of sociology thereupon falls into the specific problems of discovering the categories under which the different orders of associatings observed in experience must be subsumed.

Process Conception.—There is little difference of opinion among American sociologists today over the further proposition that sociological categories will be adequate in the degree in which they connote prevalence of movement over status. That is, experience reveals to us more meaning under the aspect of activity than of fixity. Accordingly the category "social process" has become a cardinal means of sociological interpretation (Ratzenhofer, *Sociologische Erkenntnis*, 1898, ch. iv. Small, *General Sociology*, Index title, "Process, social"). "The process conception of life," or "the social process", is a phrase that has only recently come into standard usage among social scientists, and it marks a development of social self-consciousness which cost the labors of many thinkers during a half century. Analysis of experience is carried on by sociologists today with reference less to what is existing than to what is doing and becoming in a given passage of experience. Described with respect to form rather than content, the social process is a tide of separating and blending social processes, consisting of incessant decomposition and recomposition of relations within persons and between persons in a continuous evolution of types of persons and associations (cf. Ross, *Foundations of Sociology*, 91-99, 150).

Function of the Sociological Categories.—All this apparently sterile labor, therefore, of de-

termining the categories in accordance with which experience unfolds, is in fact the most basic work thus far performed for sophistication of the social sciences. It marks the latest gains of social self-consciousness in outgrowing the condition of "seeing men as trees walking." In other words, the social reality is a "going affair." The entities which men used to think they found when they inspected life turn out to be cross-sections of a continuity of personal becomings. The myth "individual" has given place to the *socius* (Baldwin, *Social and Ethical Interpretations*, 24; Giddings, *Elements of Sociology*, 10, 34, 161, etc.). Each grouping of *socii* from the simplest sexual mating up to the collidings of civilizations, tells its full story not in terms of what it is at a given time. That is merely a moment in the process. The complete report combines what the relationship was, but is no longer, what it is tending to be, and what our present insight indicates that it should be. Incidentally, therefore, "the state" in the traditional sense, the sense which vitiated most of Spencer's political reasonings, the sense which still frequently confuses the minds of legislators and jurists and executives, falls into the rank of a discredited hypothesis. The concept "state" of the older political philosophies was used as a term in a type of reasoning which authorized transfer of general propositions illustrated by the Pharaohs' "state," the Sultan's "state" or the Czar's "state" to the "state" of Englishmen, Frenchmen, Germans or Americans. This is as far from objectivity as it would be if the concept "matter" were held to justify affirmations about radium or sodium or oxygen, merely because the same had been illustrated in the behavior of ice or iron or hydrogen. In the last analysis, the "state" is merely a convenient term of inclusion for all the compulsory ways in which the persons of a more or less accidentally determined territory are coöperating at a given time in adjustment both of their common and their particular interests. This coöperating may not be stated as though it were yesterday, today and forever the same. It is always a function of the associatings of past, present and future persons. It is therefore, like the rest of human experience, a congeries of relationships in the course of evolution.

The Idea of Social Movement.—The like is true of the category, society. It is still a term of convenience, but with less prospect than ever of becoming a tool of precision. What we actually find, where the term society was once supposed to fix bounds, is merely an indefinite range of partially or wholly articulated associatings, among which are those coöperatings provisionally denoted by the term "state." Several years ago an American sociologist crystallized this perception into the aphorism, "Society is virtually a

verbal noun" (Hayes, *American Journal of Sociology*, XI, 36). We may generalize the proposition. If we should invent a vocabulary along the lines cautiously followed in this article, that is, a terminology to correspond with all we can now see in the light of the process concept, we should probably seem even to some of our own number to be compounding pedantry. As we now interpret experience, however, each noun which stands primarily for a social situation or condition would have to appear in a verbal form if it suggested our whole thought. Thus, when we say "groups" or "associations" or "functions" or "institutions," or even "persons" we really mean "groupings" or "associatings" or "functionings" or "institutionalizings" or "personalizings," etc. That is, experience makes itself known to us in the form of incessant repersonalizing of persons and rearrangings of arrangements; and this element of *becoming* is the most decisive factor in our understanding of any portion of experience.

It should go without saying that at least embryonic sense of proportion is assumed as a precondition of using sociological categories. The ratio in which the aspects of status and of movement are to be reckoned as meaning factors in a given case must always be a matter of judgment. A desperate criminal at large, a starving family, an epidemic, is first and foremost a very present fact, to be dealt with as such. On the other hand, the factors which predetermine crime, poverty, disease, or the elements which should find their reckoning in a national tariff, conservation, or arbitration policy, reach far back and far forward, and they call for consideration and action very different from that appropriate to a specific case.

Form vs. Content of Experience.—Thus far we have spoken almost exclusively of the formal side of experience. In the mere matter of terms, sociologists are nearer uniformity in their symbols for the modes of experience than in their categories for the content of experience. In spirit, however, they have steadily been approaching unanimity in the conviction that the social process must be understood as of, by and for persons, and that appraisals of given stages of the process must turn upon their visible output in personalizings and associatings of enlarged scope and improved quality. "The supreme result of efficient social organization, and the supreme test of efficiency, is the development of the *socius*, or the personality of the social man. If the man himself becomes less social, less rational, less manly, if he falls from the highest type, which seeks self-realization, to one of those lower types that manifest only the primitive virtues of power, if he becomes non-social or anti-social—the social organization, whatever its apparent merits, is failing to achieve its supreme object. If, on the contrary, the man is becoming

ever better as a human being, more rational, more sympathetic, with an ever-broadening consciousness of kind—then, whatever its apparent defects, the social organization is sound and efficient" (Giddings, *Elements of Sociology*, 230). "Men's experience is the evolution of human values" (Small, *The Meaning of Social Science*, 137). Considered on the side of content, some shaping of the concept *human realization*, as a consummation not to be defined *a priori* but to be built up by accumulatings and expandings and adjustings of concepts of personal qualities, is becoming the normative category of experience.

Secondary Categories.—It is not practicable within the limits of this article to speak of the more particular sociological categories. They seem to be more heterogeneous than they are, because they have been worked out from the standpoint on different planes of relationship within the social process. Some of the best known groups of categories are parts of the critical apparatus developed in analyzing experience from the standpoint of the concepts "social genesis," "social forms," "social forces," "social psychology," "social organization," "social control."

Implications for Applied Sociology.—In thus describing the distinctive work of general sociology, we have indirectly expanded our description of applied sociology. There either is, or there is developing, a peculiar technique and technology for each division and subdivision of deliberate effort for social improvement. The respective technologies are systematic programs for promoting the health, wealth, and culture interests of the groups with which each is primarily concerned: the family, the industrial group, the urban group, the rural group, the criminal group, etc. (see SOCIOLOGY, APPLIED). In so far as these technologies are scientifically founded, they presuppose the categories to which we have referred, and they make use of these categories not only in analysing the group situations and tendencies, but also in determining the rational group purposes. This was memorably illustrated in the platform adopted at its organization by the *Verein für Sozialpolitik*, perhaps the most influential voluntary organization in the world for promoting social technology. That creed was a particular rendering of the human realization category. It may be summarized in the proposition reiterated by Schmoller in many variations. "Every member of the community should be put in a way to share in all the developing goods of civilization."

Influence of the Social Concept.—The most instructive resumé that has been written of the influence of the social idea, is the contribution of Professor von Philippovich, entitled the *Infusion of Socio-political Ideas into the Literature of German Economics*, in the second of the two volumes dedicated on his seventieth birthday to Professor Schmoller. The estimate

is especially valuable because it is the judgment not of a sociologist but of an economist. The closing sentences of the monograph are these:

How the relationships of men take place . . . is no longer dependent upon economic appraisal, but it is a consequence of the moral ordering of life. To have shown this, and to have made it a basis of the actions of men in society and in the State, is the merit of that change which has been brought about through the infusion of the sociopolitical ideas into national economy. New tasks are therewith assigned to the science which the older science did not recognize. From a mere theory of industry it becomes a social theory. Its task is no longer to describe the simple correlation between goods and active self-interest. Its business is now to recognize this interdependence as also both cause and effect of other occurrences; and consequently its duty is to understand the course of industry under the influence of nature and of moralization in order that we may learn to control it.

See POLITICAL PHILOSOPHY; POLITICAL SCIENCE; PSYCHOLOGY OF THE CROWD; SOCIAL REFORM; SOCIOLOGY, APPLIED; STATE, THEORY OF.

References: L. F. Ward, *Psychic Factors of Civilization* (1893), *Pure Sociology* (1903), *Applied Sociology* (1906); J. S. MacKenzie, *Introduction to Social Philosophy* (1890); F. H. Giddings, *Principles of Sociology* (1896), *Inductive Sociology* (1901), *Descriptive and Historic Sociology* (1906); G. E. Howard, *Hist. of Matrimonial Institutions* (1904); W. G. Sumner, *Folkways* (1907); W. I. Thomas, *Source Book of Social Origins* (1909); E. A. Ross, *Social Control* (1901), *Foundations of Sociology* (1905); C. H. Cooley, *Human Nature and the Social Order* (1902), *Social Organization* (1909); G. Simmel, *Soziologie* (1908); C. H. Ellwood, *Sociology in Its Psychological Aspects* (1912).

ALBION W. SMALL.

SOCIOLOGY, APPLIED. Distinctions.—German economists find it convenient to distinguish between general (theoretical) and special (practical) economics. It is convenient in sociology to follow this hint and cultivate general and practical sociology. There is an important and significant difference between the divisions of social technology here proposed and the divisions commonly used in practical economics and economic politics. In the latter the divisions are based on the specialization of labor and branches of industry or commerce: as the economics of banking, insurance, railroads, agriculture. In practical sociology, because it deals directly with humanity, the divisions should be based on natural groups of persons, as family, communities, classes.

Scope of Social Technology.—Social technology starts from the analysis of social groupings and interests furnished by general sociology (see SOCIOLOGY), and it is modified at every step by advance in knowledge in all the fields of science. At a given moment, however, all available knowledge must be utilized for achievement; there is no final "solution"

of social problems. The physician must each day do the best he can in his science and art of healing, well aware that tomorrow a laboratory bulletin may place him under moral obligation to adopt entirely different means. Herbert Spencer showed that science is just common knowledge carried to the highest possible degree of completeness and accuracy. Whenever an intelligent citizen adopts a principle of personal conduct he takes into account all the interests and consequences he can remember or discover. He may abstract any one of them for thorough examination, but if he consciously omits any one in his life plan he is that far immoral, and knows it. We can illustrate the scope of social technology by what constantly happens in a chance group of farmers or in the deliberate discussions of a village improvement society when the "general welfare" is under consideration. The range of topics is as wide as the urban newspaper. The farmer suggests one set of phenomena, the storekeeper another, the doctor another, the county editor many things, and the visiting commercial traveller touches all. They may call in a lawyer to formulate regulations or a bill for a law but their plans look more to future achievements than to saluted precedents. They know that they must agree on a policy because they must live together, and must find a practicable method of realizing the covenanted end. Thus they are social technologists. Certainly with wider and clearer vision and fuller knowledge their policy would be more adequate; and it is here that applied social science can help them.

Each "socius" has in his nature all the needs of all men, without exception, but feels them as wants in varying degrees. Each "socius" must use all the institutions of society and all the forms of knowledge. He goes to specialists, as lawyers, teachers, physicians, for expert professional service; but he must possess enough "world ideas" to live in association with his neighbors. Every man and woman of social position above the lowest is compelled to form some kind of a judgment, favorable or adverse, in regard to scores of ameliorative and reform movements started by specialists or fanatics. By appeals in circulars, newspapers, letters and interviews, they are made to say yes or no to these multifarious calls. A refusal is a judgment and a decision involving responsibility. It is evident that answers to requests ought to be as intelligent as possible, whether we help or decline to help with time, money, influence, labor. An intelligent judgment is possible only after a survey of the entire field, and this survey cannot be made by any one person; it is a product of well coördinated rational labor. The "practical" man who despises theory is the most obstinate theorist; he is sure of his experience, but he is sometimes slow to learn of the world's experience; he may lose

years in trying an experiment which has often been tried by others. All forms of science culminate in applied sociology. It is only when they coöperate that they are fully rational.

Sociology and History.—Sir H. S. Maine (*Village Communities*, 230) said:

It is not the business of the scientific historical enquirer to assert good or evil of any particular institution. He deals with its existence and development, not with its expediency.

But this aspect of science satisfies only one of the many needs of humanity, the desire for knowledge. Social technology does deal with "expediency," if by that we mean the actual adaption of institutions to human welfare. In this wide sense a course of conduct is ethically "good" when it actually tends to promote all forms of welfare for the entire community under consideration; and "expediency" rationally interpreted, becomes the supreme test of conduct. Where the "scientific historical enquirer" leaves off, the practical sociologist begins; but he does not desert the solid ground laid in scientific inquiry.

Tasks of Social Sciences.—A. Wagner declares that the social sciences differ from the sciences of nature in the scope of their tasks. *Grundlegung der politischen Oekonomie*. All the sciences in common seek: (1) to establish the facts, and (2) the tendencies of the phenomena studied, and (3) to explain these facts in a causal series. But the sciences of society go further and inquire: (1) what is the value of the facts for human society? (2) what ought to be? and (3) how can the end be progressively realized? In the purely theoretical sciences the task is to learn in order to know; in the social sciences we learn in order to control means to ends; but in both cases knowledge is the object of the scientific discipline.

The scope of practical sociology is indicated in this description of the objects of the study: "Those modifications of society which are brought about by the social will, equipped with adequate knowledge, using appropriate means, and striving toward an intelligently conceived goal" (E. A. Ross).

Social technology must start with an analysis of desirable ends of concerted volition analyzed by psychology, revealed in history, vividly presented in art and literature, and justified by social philosophy. Human purpose directed to desirable ends is an objective fact, actual and real as a star or a crystal. Granted that not all social changes are due to concerted human volition, and that many changes can be traced to external nature and unthinking custom; still men do coöperate consciously to improve their condition and they sometimes succeed. The ends are in human nature and they come out in deeds, laws, institutions, works. These desires and volitions are themselves causal factors. They act upon the ma-

terials and forces of nature, using them to accomplish desired ends. Knowledge, science, is the instrument of government.

Practical sociology attempts to comprehend in an intellectual system, the complex of conditions in which the accepted ends of human life may best be realized. This "theory," or intellectual control, is necessary to furnish the most effective and economical method of actual achievement.

Classification of Interests.—While the material objects of desire are beyond counting and infinitely varied, the ends or interests themselves may be analyzed and classified. (1) There are the desires on whose satisfaction depend the physical integrity and power of the individual and the perpetuation of human life, as the appetites of hunger, thirst, sex. (2) The desires whose satisfaction in control of nature is necessary to all other satisfactions and whose activities are the special field of economics. These are means to other ends but come to be almost idealized as ultimate in wealth, commerce, industry. (3) There are the higher desires which have been evolved in civilized man and are the springs of interest and achievement in science, art, companionship, morality, government, religion and the social institutions which are created for their furtherance.

Methods of Study.—The system of means and measures for the satisfaction of these desires may be studied in various ways. The complex whole must be viewed in various aspects, without forgetting that society is one and its interests not divided into independent parts. As soon as we attempt to invent and apply a "technique" we must find a different set of tools for each achievement. Analysis is imposed on us by the limitation of our focal field. The division here offered is merely a convenience, a tentative device, which may easily be rejected for a better. We may in turn inquire how the ends of welfare (desires, interests) may best be promoted in the family, the rural community, the urban community, the commonwealth, the nation, the world of international law and civilization, humanity. This study may be followed or accompanied by an investigation of the regulative principles found in the best methods of dealing with particular groups of human beings having many traits in common: the depressed, the abnormal, the anti-social. We may also isolate for study the interests of the wage-earners and the "social politics" which have grown out of attempts to improve their conditions, a study far wider than "social economics."

Illustrations.—We select for illustration of the procedure of practical sociology what might be done by a large group of men and women of light and leading in making a plan for their commonwealth. The very name "commonwealth" shows that we are not making an

appeal to credulity but to common sense: for the word is proof that Aristotle's definition still has vital meaning; the state is a people living a common life to a noble end. We can easily imagine a conference of persons representing science, business, art, religion, government, recreation, wanting to make a working programme for the welfare of the whole people. It is not necessary that they should be formally elected: their decisions would have no more authority than the wisdom they embody. Such a conference would agree that all the elements of welfare should be considered; that no group of persons should be neglected; that health, wealth and culture for all citizens should be taken into account. Then they would invent some natural division of labor. The physicians and engineers would be regarded as responsible for leadership in matters of public health, and they would formulate the demands of modern sanitary science. The teachers would be requested to standardize the work of the schools. The artists would agree upon the requirements of the people in relation to the works of beauty. Those who cared specially for the destitute, and had studied their needs, would draw up one part of the programme and justify it. Those who had given long thought to the wage earners would set up a standard of treatment for them. In each group "practical" men of wide vision would be an essential factor, as nitrogen in the atmosphere is necessary lest the oxygen, in a fit of academic enthusiasm, burn up the breathing organs. Such a conference would bring together all these specialists and experts, from time to time, and with the help of a small committee would seek to systematize and combine all the recommendations into a consistent plan. By repeated discussions and critical tests the economic, physical, and constitutional tests would be applied. The rudiments of such a process may be found already in the legislative reference bureau in Wisconsin; but legislation is only one method of furthering the general welfare. Informally and drastically the newspapers and magazines act as a conference for the entire people.

Sociology and the Law.—Recent decisions of our Supreme Court encourage us to develop our social technology; for that august body, more respected than any other in our land, has distinctly taught that ultimately the Constitution will not be found in antagonism to any thoroughly approved measure for achieving general welfare (F. Kelley, *Some Ethical Gains through Legislation*; F. J. Goodnow, *Social Reform and the Constitution*, 1911). Indeed, the Constitution itself was framed for this high purpose and nothing lower. Thus we see the relation of practical sociology to law and to the teaching of law; it is the discipline which reveals what law ought to become. Courts of final resort are not ruled absolutely by precedents and legal fictions,

and legislators may change law in the direction of improvement. To confine the study of young lawyers entirely to decisions of cases and to precedents is to render them incapable of keeping pace with the vital process of a noble science. Here also is the test of the pretensions of practical sociology; it must become competent to give proof beyond reasonable ground for doubt, that its programme will actually promote the common welfare, when accepted in law, in judicial interpretations, and in popular customs.

Standards of Judgment.—Practical sociology offers a method of criticism of any complex of social arrangements. Its standard of judgment is the degree of adaptation of institutions or conduct to the conditions of general welfare. Thus it helps to correct the vision of the overman who regards other men as his tools; the estimate of the manufacturer who looks upon his employees as only so many "hands"; the philosophy of the exclusive trade unionist who considers bombs as fair in war; the pedantic Brahmin, who has contempt for the unlettered. The "economic interpretation of history" is shown to be partial, and the economic end as only a preliminary means. No doubt all this involves immense intellectual labor; but a view of life less comprehensive cannot be accepted as satisfactory; and so long as any interest or any group of humanity is ignored, so long our judgment of a tendency of social conduct must fall short of being scientific as well as ethical.

It is not an objection to our claim for practical sociology that no one man can master it in all its details and applications. That is true of all the sciences and scientific disciplines. A scientific discipline is justified if it furnish an instrument of analysis and synthesis and disclose the fundamental principles of the subject. Encyclopedias of information and monographs of intensive specialists are also necessary to furnish humanity with the knowledge which has been discussed by myriads of investigators in the republic of letters and of practice. One of the intellectual needs of the world is also a practical need,

*Um im Ganzen, Guten, Schönen
Resolut zu leben.*

Problems.—The problem of practical or applied sociology is the rational and just division of the inheritance of civilization. The value of the sciences lies in their service as means of control of all forms and materials for the satisfaction of human needs. The diffusion of knowledge of science is certainly one of the essential methods by which members of the race can come into the enjoyment of what belongs, not to a few men, but to the race. Certainly a people intellectually stagnant, stupid, indifferent, can have neither the ambition nor the skill to take possession of the vast material and ideal wealth which has come down to us from the past or been achieved in

recent times. The general diffusion of knowledge must, therefore, form a part of the programme upon which practical sociology is working.

It may or may not be inconsistent with this statement, but only an application, if we insist that improvement of the race also depends on bringing into the range of interests of the people the objects of art, the works of literature, the expressions of spiritual vision, the interpretations of the values of existence.

See **POLITICAL SCIENCE; SOCIAL REFORM; SOCIOLOGY.**

References: L. F. Ward, *Applied Sociology* (1906), *Dynamic Sociology* (1906); A. W. Small, *General Sociology* (1905) 705; C. D. Wright, *Practical Sociology* (7th ed., 1909); C. R. Henderson, "The Scope of Social Technology" in *Am. Jour. of Sociology*, VI (1901), 465, "Practical Sociology in Service of Social Ethics," in University of Chicago, *Decennial Publications*, III (1900).

CHARLES R. HENDERSON.

SOFTS. The "Softs," or "Soft Shells," were New York Democrats, in opposition to the regulars, "Hunkers" (*see*), or "Hards" (*see*). The "Softs" made efforts to draw back into the Democratic party the Democratic element of the Free Soil party (*see*). In the ranks of the "Softs" were such men as Dix and Marcy (*see* MARCY, W. L.). In the contest over the Kansas-Nebraska Act (*see*), the "Softs" supported the popular sovereignty (*see*) principle. New York was represented by both factions in the convention of 1856, each delegate having half a vote. In 1860, the "Softs," Douglas delegates, were seated. See **DEMOCRATIC PARTY.** **References:** E. Stanwood, *Hist. of the Presidency* (1898), 265, 282; J. F. Rhodes, *Hist. of U. S.* (1893-1906), I, 389, 481.

T. N. H.

SOILS, BUREAU OF. The Bureau of Soils is one of the bureaus of the Department of Agriculture. Its function is to study the soils and soil-resources of the United States through both field service and laboratories. A soil survey of the entire United States was begun in 1899, and by June 30, 1910, the Bureau, aided in several states by state appropriations or organizations, had surveyed 359,564 square miles of agricultural soils. It began in 1908 a reconnaissance survey of the Great Plains region, and also has conducted soil-water investigations in the arid regions of the West. The laboratory investigations have been directed with a view to the ultimate publication in final form of the more important facts concerning the soils of the country. See **AGRICULTURAL EXPERIMENT STATIONS; AGRICULTURE, DEPARTMENT OF; AGRICULTURE, RELATIONS OF GOVERNMENT TO.** **Reference:** Department of Agriculture, *Annual Reports*.

A. N. H.

SOLDIERS AND SAILORS, LEGAL STATUS OF. Enlisted men in the Army and Navy in time of peace become such in the operation of contracts of enlistment, voluntarily entered into by them, in which, in virtue of the promise to allow them such bounty, pay, rations and clothing as are or may be established by law, they undertake to place their entire time at the service of the government and to serve it loyally and faithfully against all its enemies or opposers whomsoever. In the operation of this undertaking a special status is created for the soldier or sailor, and he becomes charged with duties and obligations in behalf of the public of which he cannot divest himself during the term of his enlistment.

The attitude of the soldier toward the law does not change by the mere fact of his enlistment in the military or naval service, and he remains liable to trial by civil courts for any offense which he may commit in violation of the law of a state or of the United States. He has no immunity from the payment of debts incurred independently of the military service. Persons who deal with soldiers or sailors are chargeable with knowledge of the amount of pay received by them, and cannot plead ignorance where debts considerably beyond their power to pay have been contracted. The War and Navy Departments are without power to charge themselves with the collection of debts incurred by officers and men, but, where a judgment has been obtained in an action which the officer or soldier had an opportunity to defend, and which the defendant refuses, without good reason, to satisfy, it is within their power to proceed against him, before a military tribunal, under a charge alleging conduct to the prejudice of good order and military discipline, or conduct unbecoming an officer and gentleman as the case may be.

The military status created by the enlistment contract, in behalf of an enlisted man of the army or navy is normally terminated by his discharge at the expiration of his term of enlistment, although it may be terminated, for good reason, previous to its expiration by the Secretary of War or of the Navy, who are regarded as the representatives of the United States in the execution of all contracts of enlistment, and are charged by law with power to rescind them where such a course is to the public interest. The separation of a soldier or sailor from the service is evidenced by a discharge certificate, an instrument having a peculiar value, as the character of the soldier is noted upon it. The service of a soldier may also be terminated by death, by discharge on certificate of disability, by dishonorable discharge in pursuance of the sentence of a court martial, by a discharge without honor, or by muster out or discharge at the expiration of a particular war in which the United States has been engaged. The soldiers and sailors are among the few persons against whom the spe-

cific performance of a contract to give services can be enforced; but corporal punishment ceased to be a legal penalty in the Army in 1861. The only legal method of duress is imprisonment, including, if necessary, solitary confinement, and confinement for a brief period on a bread and water diet.

See LABOR CONTRACTS.

References: C. M. Clode, *Military Forces of the Crown* (1860), ch. x; J. I. C. Hare, *Constitutional Law*, (1889), 935; *Revised Statutes of the U. S.* (1878), § 123.

GEORGE B. DAVIS.

SOLDIERS' HOMES. In 1851 Congress appropriated \$118,791, the balance of a military contribution from the city of Mexico in 1848, as the foundation of an asylum at Washington "for the relief and support of invalid and disabled soldiers." Soldiers of the regular Army pay \$1.50 a year to the funds of this establishment, to which certain fines and forfeitures are also added. Honorable service for 20 years or disability not due to misconduct entitles a soldier to admission; and pensioners are allowed in addition to dispose of their pensions. About \$700,000 is annually appropriated for the maintenance of this institution. National homes for soldiers or sailors who have taken part in any war of the United States were established in 1866 and there are nine of these in different parts of the country. Inmates surrender half their pensions for their maintenance. Congress appropriates \$4,500,000 for these establishments and \$1,150,000 for homes founded by the states. Admission is not equivalent to enlistment, and statutes making the inmates subject to the regulations of the Army or Navy have been held unconstitutional. See ARMY, STANDING; ENLISTMENT, NAVAL AND MILITARY; NAVAL HOMES; PENSIONS, MILITARY AND NAVAL; RETIREMENT OF MILITARY AND NAVAL OFFICERS. **References:** W. Scott, *Memoirs* (1864), II, 546, 583; C. M. Wilcox, *Hist. of the Mexican War* (1894), 524, 531; U. S. War Department, *Military Laws* (1908), chs. xli, xlii; *Annual Reports*, 1910, 1, 63; Board of Managers, National Home for Disabled Volunteer Soldiers *Annual Reports*; U. S. Navy Department, *Laws Relating to the Navy* (1898), 58, 380, 389; *Navy Regulations* (1909), 173, 268; *Annual Report*, 1910, 16, 50, 144, 318.

C. G. C.

SOLDIERS' ORPHANS. Homes for the orphans of soldiers of the Civil War are maintained in the states of Maine, Pennsylvania, Ohio, Indiana, Illinois, Iowa and Kansas. These homes have been maintained partly to obviate the necessity of sending the orphans of soldiers to orphan asylums or poor houses, and partly to provide for the temporary care and education of the children of soldiers while their parents are in temporary distress, with

the expectation that the children would ultimately return to their parents.

As was to be expected, the number of children in some of the soldiers' orphans' homes has decreased. In the state of Maine a law has been passed providing for the admission of grand-children of soldiers and sailors to the soldiers' and sailors' orphans' home at Bath. In Kansas, Iowa, and Illinois laws have been passed extending the privileges of the soldiers' orphans' home to other dependent and neglected children, after the children of soldiers have been cared for.

In practice the soldiers' orphans' homes have come to be free boarding schools for the children of soldiers. At the soldiers' orphans' home at Xenia, Ohio it was learned that the majority of the children in the institution go home for vacation every year.

The placing out method has not been followed with the children in the soldiers' orphans' homes; partly for the reason that most of the children have respectable living parents to whom they are likely to return; and partly because the boards of trustees have not been favorably disposed toward the placing out method. In the states of Kansas, Illinois, and Iowa an effort has recently been made to develop the placing out method, especially for the children who are not soldiers' children but are received under the newer laws. But these efforts have been only partially successful. It is to be anticipated that within a short time the demand for the care of soldiers' children in these institutions will cease and the institution will be converted to some other purpose.

See CHILDREN, DEPENDENT, PUBLIC CARE OF; PENSIONS, MILITARY AND NAVAL; SOLDIERS' HOMES.

References: Ill. Soldiers' Orphans' Home, *Normal Biennial Reports* (1868 to date); Ind. Soldiers' and Sailors' Orphans' Home, Knights-town, *Biennial Reports* (1868 to date); Iowa Soldiers' Orphans' Home, Davenport, *Biennial Reports* (1864 to date); Kansas Soldiers' Orphans' Home, Atchison, *Biennial Reports* (1888 to date); Maine Military and Naval Orphan Asylum, Bath, *Annual Reports* (1867 to date); Ohio Soldiers' and Sailors' Orphans' Home, Xenia, *Annual Reports* (1870 to date); Penn. Soldiers' Orphan Industrial School, Scotland, *Annual Reports* (1896 to date); Penn. Soldiers' Orphans' School, Chester Springs, *Annual Reports* (1867 to date); Penn. Soldiers' Orphans' School, Jumonville, *Annual Reports* (1867 to date); Penn. Northern Home for Friendless Children and Institute for Soldiers' and Sailors' Orphans, Philadelphia, *Annual Reports* (1866 to date); H. H. Hart, *Preventive Treatment of Neglected Children* (1910).

H. H. HART.

SOLDIERS, QUARTERING OF. One of the grievances of the colonies enumerated in the

Declaration of Independence was the quartering of large bodies of armed troops in the colonies, but the guaranty found in many state constitutions and in the Federal Constitution (Third Amendment) is that soldiers shall not in time of peace be quartered upon private persons, nor their maintenance imposed upon such persons even in time of war, except in a manner prescribed by law. The guaranty has respect to the recognition of the right of every man not to be unwarrantably disturbed or intruded upon in his home. See **BILLS OF RIGHTS; HOUSES, PRIVATE, CONSTITUTIONAL PROTECTION OF.** E. McC.

SOLICITOR GENERAL. The act of June 22, 1870, which established the Department of Justice, created the office of Solicitor General, who is to be an officer learned in the law and to act as Attorney General in case of the latter's absence or disability. His chief work is the preparation and argument under the direction of the Attorney General of cases in which the United States is interested, and in this he has the help of several assistant attorneys general. Particularly he is charged to appear for the Government in all appeals to the Supreme Court from the court of claims. He may be sent by the Attorney General to any part of the United States to appear before any court, federal or state, or otherwise defend the interests of the Federal Government. He may also assist the Attorney General in preparing opinions on questions of law for the President and heads of departments. His office is hardly inferior in importance to that of the Attorney General, and its incumbent should be a lawyer of unquestioned ability. His salary is ten thousand dollars. See **JUSTICE, DEPARTMENT OF.** L. B. EVANS.

SOLICITORS, PUBLIC OFFICIAL. A name applied to a public law officer in various American governments. City solicitor is a name frequently applied to an officer elsewhere called corporation counsel, or city attorney. In the federal service there is a solicitor general, in the Department of Justice, with some subordinate solicitors; and separate solicitors for the advocate general, Navy Department and Department of Agriculture. There are also solicitors general of the Treasury, of the internal revenue, of the Department of Commerce, and of the Department of Labor. See **ATTORNEY GENERAL; JUSTICE, DEPARTMENT OF; TREASURY DEPARTMENT.** A. B. H.

SOLID SOUTH. An expression which sprang up after the recovery of white supremacy in the southern states, to indicate the conception of the South that it was necessary to stand together in the Democratic party in order to prevent a revival of the power of the negroes. In the election of 1864 there was practically a Republican solid south, only Ken-

tucky and Delaware choosing Democratic electors. In 1868, in addition to those two states, Georgia, Louisiana, Maryland, chose Democratic electors. In 1872 Louisiana, Maryland, Missouri, Tennessee and Texas were Democratic. In 1876 Florida, Louisiana and South Carolina were the only states still Republican, but the majority of votes cast in those states was probably on the other side. In 1880 not a Republican elector was secured in any southern state but Maryland; and in 1884 the solid south combined with Indiana, New York, Connecticut and New Jersey, made Grover Cleveland President.

By that time the danger of a return of the carpet bag government had definitely gone by; but again in 1888 and 1892 every southern state was democratic. In 1896, however, there were several breaks, Delaware, Kentucky, Maryland and West Virginia going Republican. The result was substantially the same in 1900. In 1904 Roosevelt carried Delaware, Missouri and West Virginia, and one vote in Maryland. In 1908, Taft had the same electoral votes, plus a second elector in Maryland.

Notwithstanding the stiff adherence of nearly all the southern states to one presidential ticket, an occasional Republican Senator and numerous Representatives are elected from the southern states: both Kentucky and Tennessee recently have had Republican governors. The suffrage amendments in six southern states have taken away any reasonable fear of negro supremacy; and many southerners realize that the belief that the southern states will under all circumstances vote a particular ticket takes away their influence in both party conventions.

See **DEMOCRATIC PARTY; NEGRO SUFFRAGE; PRESIDENTIAL ELECTIONS; RECONSTRUCTION; REPUBLICAN PARTY.**

References: J. Bryce, *Am. Commonwealth* (4th ed., 1910), II, ch. xciii; A. B. Hart, *Southern South* (1910), ch. xxvi; E. Stanwood, *Hist. of the Presidency* (1898), *passim*; H. A. Herbert and others, *Why the Solid South* (1890). A. B. H.

SOREHEAD. A derisive term applied to the discontented party magnate who, being dissatisfied with the "slate" or the distribution of party spoils, withdraws from the party caucus and endangers party harmony.

O. C. H.

SOURCES OF THE CONSTITUTION OF THE UNITED STATES. See **CONSTITUTION OF THE UNITED STATES, SOURCES OF.**

SOUTH. Topography.—Geographically and historically the group of communities south of Pennsylvania is distinctly marked off from its neighbors on the northeast and the northwest. To the original southern colonies of Maryland, Virginia, the Carolinas, and Georgia were eventually associated under the term

of the South, all the slave holding states, except Delaware, which is accounted one of the middle states. This group includes the following states: Maryland, Virginia, Kentucky, Tennessee, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Arkansas, Missouri, Texas, West Virginia. The total population of these states in 1900 was 26,476,348 and in 1910, 30,492,049, an increase of fifteen per cent. The District of Columbia, also to be considered with these southern states, had a population of 278,718 in 1900 and 331,069 in 1910. The cotton states south of North Carolina and Tennessee and Arkansas, have often been called the Lower South.

The South is by climate and geographical conditions divided by two lines of cleavage. The Appalachian range of mountains practically separates Kentucky and Tennessee from the Atlantic coast states, but immigration easily passed the barrier and the people east and west of the range are not divided in sentiment. More significant was the division between the Lower South and the second tier of slaveholding states, North Carolina, Arkansas and Tennessee, alongside the actual border states Maryland, Virginia, Kentucky and Missouri. The number of negroes in these communities was smaller than in those farther south and slave labor was less profitable, so that there was a sharp division of interests between the two subsections.

There is little flat land in the South, except near the sea coast where the slope is very gentle. Many parts are mountainous and most other parts are hilly; and there is everywhere abundant rainfall as far as eastern Texas. In the extreme South, Florida, and southern Texas, tropical fruits can be grown; but the two largest crops for many years have been corn and cotton. The middle South also abounds in minerals including magnificent coal lands and iron ore and it still contains large areas of virgin forest.

Race Elements.—In two marked respects the South differs from the other parts of the Union: it has a large negro element; and there is only a small infusion of foreigners. With the exception of the early German and Swiss settlements in Georgia, a small Huguenot and Highland Scotch element, and the Scotch-Irish, the ancestors of most of whom worked southwestward from Pennsylvania, the white population is of pretty clear English descent. In the southern mountains where the colonial conditions still persist, the people have been dubbed "our contemporary ancestors." English ballads and seventeenth century word forms are still to be heard. No section of the Union has so homogeneous a population. Down to 1912 there were few colonies of foreigners except the descendants of the French in New Orleans, Germans and of late years some other European races in Texas, and a few Italians

in the lower Mississippi Valley. The South has not the problem of assimilating foreigners or of carrying on city governments in the midst of swarms of immigrants.

On the other hand, from the end of the seventeenth century to the present the South has carried the burden of the negro problem (*see*). Thirty years ago it was thought that the whites were likely to increase so much faster than the negro race that the problem would eventually be dwarfed; but recent censuses have not shown much differences in the rate; the negro continuing to be over one-third of the population of the former slaveholding states—in 1910, 41.1 per cent.

For both these elements there are several marked deviations in the South. The cities of Baltimore and Louisville and parts of Missouri and Texas contain thousands of foreigners. The negro problem is less intense in those places than in the greater part of the South.

Occupations and Wealth.—Down to the Civil War the South lagged in prosperity behind the rest of the Union, principally because of a wasteful and antiquated labor system (*see SLAVERY AS AN ECONOMIC SYSTEM*). By counting the market value of the slaves as wealth the South felt itself rich; but it had not the accumulations of buildings, transportation lines, farm machinery and stocks of goods which made up the wealth of the rural North. The Civil War caused a considerable destruction of property, and broke up the old industrial methods; so that it was fully 1880 before the South began to go forward again. Great progress has been made in developing the minerals, including extensive oil fields; establishing manufactures, building cities; perfecting excellent railroad facilities; and putting new lands into culture. The South is now rich, though not so rich as the rural states of the middle West and Northwest, comparing equal groups of population.

Social Conditions.—In no part of the country are social distinctions so clearly marked as the South. Down to the Civil War the slaveholders and their younger branches and associates were clearly marked off from most of the rest of the population, though in the border states there was always a strong element of independent, non-slave-holding farmers. In each state there was a body of a few thousand families who knew each other, intermarried and constituted the dominant element of society. The descendants of those families are still regarded as the "first families," though the change in economic conditions has brought about a mixture in southern society.

The professions have always been highly respected in the South and as a community it has been interested in letters. Many of the southern public men have had good school and college educations. The South is studded with colleges and since the Civil War has developed several large state and endowed

universities; and in the last two decades hundreds of public high schools have been founded. In rural education the South has always been behind the North; during slavery a third of the population was cut off from schooling; in many parts of the South the population is sparse; and the per capita expenditure for rural schools is lower than anywhere else in the country.

Partly from its century of discussion on slavery, partly from the tradition of the Civil War, and partly because of the influence on the mind of the cotton crop (which is in value less than half the agricultural output of the section), the South has a stronger sense of unity than any of the other sections. At present there is going on a shifting of the population both ways; southerners move west and northwest, and Texas and certain parts of the gulf coast and Florida receive numbers of northern people.

See AM. GOVERNMENT AND GEOGRAPHY; BOUNDARIES OF THE UNITED STATES, INTERIOR; CONSERVATION; INDIAN POLICY OF THE UNITED STATES; MIDDLE STATES; MIDDLE WEST; PHYSIOGRAPHY OF NORTH AMERICA; PUBLIC LANDS AND PUBLIC LAND POLICY; SECTIONALISM IN AMERICAN GOVERNMENT; TERRITORIES OF THE UNITED STATES, ORGANIZED.

References: W. G. Brown, *Lower South in Am. Hist.* (1902), chs. i, vi; A. B. Hart, *Southern South* (1910); N. S. Shaler, *The United States* (1874), I, 69–201; *The South in the Building of the Nation* (1909–1910); H. W. Odum, *Social and Mental Traits of the Negro* (1910); G. C. Eggleston, *Recollections of a Varied Life* (1910); A. H. Stephens, *Recollections with Biographical Studies* (ed. by N. L. Avery, 1910); H. W. Grady, *The New South* (1890); C. D. Warner, *Studies in the South and West* (1889); M. G. Moses, *Literature of the South* (1910); N. B. Hammond, *Cotton Industry* (1897); E. C. Semple, *Am. Hist. and Its Geographical Conditions* (1908), chs. xv, xvi. ALBERT BUSHNELL HART.

SOUTH AFRICA, UNION OF. The Union of South Africa as now constituted under an act of the British Parliament (the South Africa Act of 1909) consists of the four provinces of the Cape of Good Hope, Natal, Transvaal and Orange Free State. After the South African war the Transvaal (1906) and the Orange River Colony (1907) were granted responsible government. The extreme need of uniform arrangement for tariffs, railroads, immigration, and the control of the native races throughout South Africa rendered union imperative. A temporary customs union had already been formed (1903). The conference held at Pretoria (May, 1908) in regard to the tariff and railroad rates, recommended the summoning of a national convention. The four colonial legislatures appointed delegates to the convention which met

in Durban (Oct., 1908) and in Cape Town (Feb., 1909). A constitution was drafted, amended by the legislatures, revised by the convention (Bloemfontein, 1909), and finally accepted by a vote of the people in Natal and of the legislatures in the other colonies. Embodied in a British act of Parliament (June, 1909) the constitution went into operation May 31, 1910. The government of the union consists of a governor general, with a responsible cabinet, and a Parliament of two houses. The Senate consists of 40 members. Eight are nominated by the governor general for ten years and eight elected by the provincial legislatures. The house of assembly consists of 51 representatives from the Cape, 17 from Natal, 36 from the Transvaal, 17 from the Orange Free State. This is not strictly proportional to population but provision is made for alteration in that direction when the total number of members reaches 150. The franchise is that of the separate colonies, which means that the native races can vote only in Cape Colony. The House is elected for five years, unless sooner dissolved. Money bills must originate in the house. In each province there is an administrator appointed by the governor general for five years, and a provincial council elected for three years, with an executive committee of four, elected by the council, who may or may not be members of the council.

The government of South Africa is in reality unitary and not federal. With certain exceptions, the parliament of South Africa is supreme over the provinces. Certain provisions of the constitution can be altered only by a two-thirds majority of a joint session of the legislature; other provisions, if amended, would have to be reserved for the king's pleasure; other things, such as the constitution of the senate for ten years, can be altered only after a lapse of time. Cape Town is the seat of the parliament, and Pretoria the seat of the executive government of the union.

See COLONIZATION, PRINCIPLES OF.

References: South Africa Act (1909, 9th ed.), VII, c. 9; R. H. Brand, *Union of South Africa* (1909); W. W. P. Selbourne, *Review of the Mutual Relations of the British South African Colonies* (1907).

STEPHEN LEACOCK.

SOUTH AMERICA. This continent is smaller than North America, but is nearly twice as large as Europe or Australia. Of the three continents which lie wholly or partly in the southern hemisphere, this extends the farthest southward although it reaches only to about 55° south latitude. Its easterly position as compared with North America gives a short ocean passage to the shores of Africa.

The most striking physical feature is the Andean mountain system, which is continuous from the Isthmus of Panama to the southern extremity of the continent. The culminating

SOUTH AMERICA



peaks, some of which are volcanic cones, attain altitudes of more than 20,000 feet. The system is narrow in the southern, but broad in the central and northern parts, inclosing high plateaus in western Bolivia, and elevated mountain valleys in Peru and Colombia.

The eastern highlands are chiefly developed along the Atlantic coast in Brazil. They are

ancient and are the remnants of mountains which have suffered denudation from greater altitudes. A minor development of the eastern highlands is found in the Guiana Highland, northward from the lower Amazon. Between the two systems of upland, east and west, are lowlands, as in North America. Some are low and flat, like those along the arteries of the

Amazon and La Plata river systems, and some are high and more diversified, like the Campos of Brazil and the sloping and terraced plains of southern Argentina between the Andes and the Atlantic.

The climate is mainly determined by the tropical position of the wider part of the continent. The northeast and southeast trade winds bring ample rainfall to the northern parts and to most of Brazil, Uruguay, Paraguay and northeastern Argentina. These winds are shorn of their moisture in passing the Andes and render the coastal parts of Peru and of northern Chile one of the most arid deserts in the world. The temperate parts of the continent are in the track of the prevailing westerly winds of the southern hemisphere, with the consequence that southern Chile is well watered while the western and southern parts of Argentina are dry.

The areas of fertile land compare well with those of North America, but it is to be observed that the latter continent was in the main colonized by people from northern Europe, and also that the problems of living in the tropics confront the white races which might attempt the development of the rich equatorial lands. Progressive development is recent because of racial limitations, the hot climate and the remote position of South America.

The population is scattered, but is mainly found on the coast line. Nevertheless the future is assured by the greatness and variety of the natural resources. Minerals are especially characteristic of the Andean belt, and agriculture and grazing are most important in the three La Plata countries. Tropical products rule in Brazil and the northern countries. These, such as rubber, coffee, cocoa, and dye and cabinet woods, must afford the basis of permanent interchange with peoples of temperate latitudes, and with those densely peopled and small countries of Europe which have specialized in the industrial sphere.

References: A. H. Keane, "Central and South America" in *Stanford's Compendium* (1909); A. J. Herbertson, "South America" in *International Geog.* (1900), 813-823.

ALBERT PERRY BRIGHAM.

SOUTH AMERICA, DIPLOMATIC RELATIONS WITH. Boundary Disputes.—

One of the frequent sources of South American conflict has been boundary disputes. Venezuela and Great Britain had a long standing dispute over the boundary of British Guiana. Venezuela, giving up hope of getting a settlement unaided, appealed to the United States. The latter offered its services as arbitrator. Great Britain declined to recognize the right of the United States to be heard in the matter and refused to arbitrate.

President Cleveland asked Congress, December 17, 1895, for a sum sufficient for a com-

mission to determine the disputed boundary; when the right boundary was thus determined, he argued, it would be the duty of the United States under the Monroe Doctrine to see that Great Britain did not take any Venezuelan territory. Under this pressure Great Britain declared herself ready to arbitrate, and in February, 1897, an agreement was made which accepted fifty years occupancy as proof of good title. Great Britain received the larger part of the land in dispute.

Claims.—The disturbed condition of Latin America following the war of independence and later has given rise to many claims for wrongs suffered by American citizens. In the Chilean revolution in 1891 many persons were granted asylum in the American legation—an act which created hard feeling against the United States. Later while soldiers from the United States war vessels were on shore they were assaulted by a mob. The following year apology was made and payment of \$75,000 given to the wounded and the families of those killed in the riot.

In 1855 a naval expedition to explore the Rio de la Plata was fired on from a Paraguayan fort, though the Argentine Republic, owning one bank of the river, had consented to the exploration. One man was killed. Damage was claimed to have been done previously to an American business enterprise. An expedition of nineteen vessels in 1858 went to secure apology. A payment of \$10,000 for the family of the man killed was received. The other claims were disallowed by a commission.

Various claims of the United States against Venezuela were settled in 1903-1908. They related chiefly to damages to citizens and violations of property rights of American corporations. Some were settled out of court, others by negotiation by a representative of the United States. Still others after having been once decided by a mixed commission in 1903 were referred to the Hague Court which gave its decision in 1910. Other claims have been settled by mixed commissions or by more formal arbitration. They have usually involved confiscation or destruction of American property. The more important were dealt with by conventions of the following dates: Brazil (1870), Chile (1892); Columbia (1855 and 1874); Ecuador (1865); Peru (1863 and 1868) and Venezuela (1866, 1885, 1888 and 1892).

Rivers.—The United States has used its influence to further liberal rules as to the use of the international rivers of South America. In 1852 the rivers Parana and Uruguay were opened to international commerce by decree. Paraguay in 1859 by treaty gave United States vessels the right to use the Paraguay river so far as it lay within that jurisdiction.

The Amazon was also given attention. Brazil and, to a lesser degree, Peru were in favor of a restrictive policy. Bolivia in 1853

declared her navigable waters open to all nations. In the same year Brazil attempted to get all the states owning land in the valley to confine the commerce to their own people. The United States instituted a vigorous campaign for the liberal principle. By treaty with Bolivia in 1858 the United States was guaranteed access to her ports. Brazil after 1866 changed her policy. Then and in the following year decrees were issued declaring the river and its more important tributaries open to the commerce of all nations. A similar decree was issued by Peru in 1868.

Venezuela has several times put restrictions on the navigation of parts of the Orinoco. The United States urged the free use of the river "as an act of friendliness," but it has been refused on the ground that the rules were justified to prevent contraband trade and revolutionary expeditions.

Recent Venezuelan Troubles.—In 1902-3 the United States was called upon to lend its good offices to Venezuela (*see* GERMANY, DIPLOMATIC RELATIONS WITH). A number of nations had pecuniary claims which Venezuela refused to settle. Germany, Great Britain and Italy intervened to protect the rights of their nationals. The United States made no objection, having been previously assured by Germany on December 11, 1901, that the principle of the Monroe doctrine would not be called in question. The hostilities were brought to a close in February, 1903, by the diplomatic intervention of the United States. Venezuela agreed to set apart thirty per cent of her customs receipts for the payment of claims, the justice of which she recognized. Other claims the powers agreed should be referred to mixed commissions which met in Caracas in 1903. The greater part of the claims passed upon were found to be unjustifiable. The question was raised whether the creditors should all stand on the same footing as to time of payment or whether the nationals of the blockading powers should be given preferential treatment. On reference of this question to the Hague Court a decision in favor of preferential treatment was given.

Panama Canal.—The United States has always been interested in the promotion of traffic across the isthmus. Various projects for canals had failed and it seemed in 1903 that, because of the attitude of the Colombian senate, the United States, then about to undertake the work, would have to choose the route through Nicaragua. A revolution occurred in November, 1903. The province was almost immediately recognized as independent by the United States, and a treaty concluded which gave the United States absolute control of a strip of land ten miles wide in which the canal lies. By treaty of January, 1909, between Colombia and Panama and Panama and the United States, the latter assigned over to Colombia the \$250,000 which was to have been

paid yearly to Panama in return for the rights granted in connection with the Panama Canal.

Coöperation among American States.—Not until the end of the nineteenth century were steps taken to draw the American states into close relations. With the increase in the importance of her foreign trade, however, the attitude of the United States changed. Long before, by the Monroe Doctrine, a political bond of union, undefined but real, emphasized community of interest; but the first important step toward close coöperation was not taken till 1881, when the Secretary of State, James G. Blaine, planned a Pan American Conference to be held in Washington in 1882. The plan did not come to fruition until 1889 when, at the invitation of the United States, the American states, with the exception of Santo Domingo, sent representatives to the first Pan American Conference, the meeting to formulate recommendations. Shortly after the conclusion of the session, however, an arbitration treaty on the lines it had recommended was signed at Washington by nine of the powers represented. The greatest result of the conference, however, was the better understanding arrived at between the states. Subsequent conferences in Mexico in 1901 and at Rio de Janeiro in 1906 have further emphasized the community of American interests.

See CANAL DIPLOMACY; CANAL ZONE; CLAIMS, INTERNATIONAL; DRAGO DOCTRINE; FRENCH PANAMA CANAL; MONROE DOCTRINE; NAVIGATION OF INTERNATIONAL RIVERS; NICARAGUA CANAL POLICY; PANAMA CANAL; PANAMA, REPUBLIC OF; and countries by name.

References: J. H. Latané, *Dipl. Relations of the U. S. and Spanish America* (1900); A. C. Coolidge, *The U. S. as a World Power* (1907); *Recueil des actes et protocoles concernant le litige entre l'Allemagne, l'Angleterre, et l'Italie d'une part, et le Venezuela d'autre part.* (Hague, 1904); M. H. Petin, *Les États Unis et la Doctrine de Monroe* (Paris, 1900); A. Viallate, Ed., *La Vie Politique dans les deux Mondes* (Annual); *Actas y documentos de la Segunda Conferencia Panamericana* (Mexico, 1902); H. Drago, *La Republica Argentina y el caso de Venezuela* (Buenos Ayres, 1903); J. B. Moore, *Arbitrations* (1898), 962-89, 1396-47, 1469-84, 1579-92, 1659-1724, 1909-2108; D. R. Dewey, *National Problems* (1907), ch. XIX; J. B. Henderson, *Am. Diplomatic Questions* (1901); A. Alvarez, *Le droit International Americain* (Paris, 1910); A. B. Hart, *Foundations of Am. Foreign Policy* (1905); J. B. Moore, *American Diplomacy* (1905); G. M. Fisk, *Int. Commercial Policies* (1910); J. W. Foster, *Century of Am. Diplomacy* (1900); A. Viallate, "Les États Unis et le Pan Americanisme" in *Revue des Deux Mondes*, May 15, 1909; L. S. Rowe, "Danger of National Isolation" in *No. Am. Rev.*, CLXXXV, June, 1907, 420-425; Basdevant, "La Confer-

ence de Rio Janeiro de 1906" in *Revue Generale de droit int. public*, XV (1906), 31 *et seq.*; J. E. Boyd, "La republique de Panama" in *ibid*, VI (1909); R. C. Morse, "Our Controversy with Venezuela" in *Yale Law Journal*, Feb., 1909. CHESTER LLOYD JONES.

SOUTH CAROLINA

Early History.—In April, 1670, about two hundred English founded Charleston. The colony of South Carolina was a proprietary colony till 1719 when a popular rebellion placed the province under royal government. South Carolina joined the Revolution (1775) from principle and loyalty to northern neighbors, as her own grievances were not great. Her first constitution, March 26, 1776, was made to secure order only until the settlement of differences with England without separation, which the state deprecated. It lasted only two years. The legislature ratified the Articles of Confederation Feb. 5, 1778. A convention ratified the Constitution May 23, 1788.

Constitutional History, 1790-1860.—The constitution of 1778 was replaced in 1790 by a thorough one drafted and put into force by a convention. It was marked by the supremacy of the legislature, which chose every official from presidential electors and governor down. The governor had neither veto nor patronage. Property qualifications were required for office holding and voting. Control lay with the rich low country, though the poor up country had four-fifths of the white population. Slavery spreading into the up country removed the fear of hostile legislation, and in 1808 representation was reapportioned according to population and wealth, giving the control of one house to each section and allaying the previous antagonism. White manhood suffrage came in 1810, South Carolina and Maryland, both in 1810, being the first of the original states to take this step.

For a time the state felt the general impulse against slavery, a feeling which was in part the product of the Revolutionary struggle. From 1775-1820 a few favored emancipation; the rigors of slavery were relaxed and manumissions increased surprisingly until the Missouri debates, abolitionism and the Vesey plot of 1822, which led to severe laws, one of 1841 forbidding manumission by transportation to a foreign country.

The state voted for Federalist Presidents until 1800, the coast country being Federalist even longer, and national patriotism flourished. When, however, it was believed that agriculture was being sacrificed by the growing protective tariff policy, doubts arose as to the worth of the Union. When the tariff of 1832 proved protectionism a permanent policy, the state, through a convention, declared it null within her borders, on the theory that, being a sovereign who had by compact with other sovereigns delegated specific powers to a com-

mon agent, she could not be bound by acts of the agent which violated his instructions, the Constitution (*see* NULLIFICATION). Declaring that enforcement would dissolve her connection with the Union, she armed. The reduction of the duties and the presence of a large body of armed Unionists within the state led to the acceptance of the "compromise" tariff of 1833. Extreme bitterness between Nullifiers and Unionists continued until the two elements were merged in the forties in dread of aggressive abolitionism. The necessity of presenting a united front in federal councils led to the sacrifice of internal political development until after 1876. The people growing restive, a movement for the popular election of the governor, giving him patronage and the veto, came in 1838. Calhoun successfully threw his influence against it as leading to division and loss of influence in federal politics. A similar movement (about 1848-56) for popular election of presidential electors met the same fate. Though usually voting with the Democrats, the state was attached to no party and did not send delegates to a national convention until 1860.

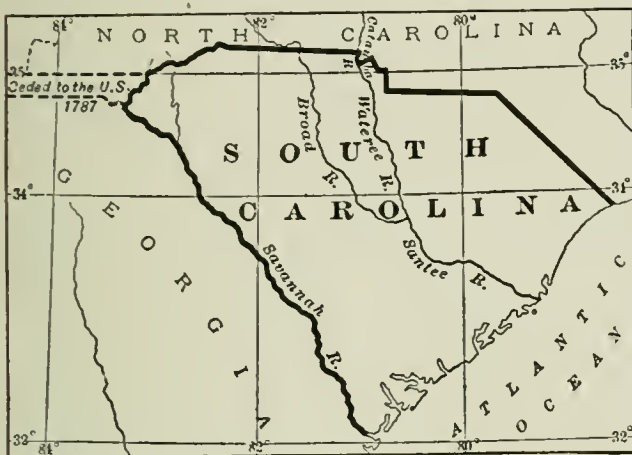
Secession and Reconstruction.—Holding that the Constitution guaranteed protection to slavery in the territories, South Carolina regarded the refusal of Congress to enforce this in 1850 as justifying secession. The governor corresponded with the governor of Mississippi for concerted action and the legislature planned a southern convention for the same end. The plan for her independent secession failed in a popular election in 1851. The success of the Republicans (1860), pledged to prohibit slavery in the territories, not to speak of ultimate abolitionism, required the state to surrender or strike for her beliefs. She was the first to secede, December 20, 1860.

Under President Johnson's reconstruction plan, South Carolina whites framed a constitution in 1865. This was overthrown by congressional reconstruction under which a convention elected by whites and negroes framed an instrument, modeled upon the constitution of New York. The state was "readmitted" in 1868. Until 1876 the negroes, led by northern adventurers ("carpet baggers") and native turncoats ("scalawags") robbed and misruled the state despite repeated opposition of the small reform element within their ranks and the native whites. Governor Chamberlain (1874-6) strove to reform his party and rallied a powerful element among the Democrats (whites), who had come to re-

SOUTH CAROLINA

gard independent action as hopeless. With difficulty the whites were induced to make a fight for native white control. Democratic victory was narrow. Federal troops were withdrawn and Wade Hampton became governor (see RECONSTRUCTION).

Other Constitutions.—The constitution of 1776 was adopted by an irregular provincial congress; that of 1778 by the legislature. The courts held both mere statutes. The constitution of 1790 was efficient, though undemocratic, and one of the most lasting in American history. The people did not vote on any constitution except under congressional order in 1868. Desire for excluding the illiterate negroes from the suffrage, and the prevailing discontent with the "Radical rag" of 1868 led to the constitution of 1895.



BOUNDARIES OF THE STATE OF SOUTH CAROLINA, SHOWING TERRITORIAL CHANGES

Present Government: Legislative.—The legislative department is called the general assembly. Each of the forty-four counties (1913) elects a senator for four years, one-half going out at a time. The 124 representatives are elected for two years; each county forms an election district and representation is apportioned among the counties on the basis of population. Sessions are annual. The legislature elects all judges, the boards of certain institutions and a few executive officers. The usual method of impeachment is provided for and in addition the legislature may, after hearing defense of any official charged with misbehavior, by two-thirds vote of each house, required the governor to remove him. Neither state nor local government may own shares in a private enterprise or pledge its credit for such purposes. Constitutional prohibition of special legislation is not extensive. The legislature is freer than usual under recent constitutions. Constitutional amendments, after passing one legislature by a two-thirds majority, must be ratified by popular majority and by majority in the new legislature.

Executive.—The governor is elected for two years. A second term is usual. Acts not returned within three days, or, if adjournment occurs, within two days after reassembling of

the legislature, become law without his signature. He may veto an entire bill or any item or section; but the legislature by a two-thirds vote may override the veto. The governor may pardon, commute or parole after conviction. The constitution provides for a Board of Pardons, but he is not bound to consult it. The governor's authority over state and local officials is slight except in directing prosecutions and conditionally suspending the accused. His patronage is not extensive, most of his important appointees being nominated by direct popular vote and all requiring the senate's confirmation. His office is capable of being made one of great influence by a strong man, but carries comparatively little power in itself outside the pardoning and veto functions. The attorney general and the comptroller general exercise great influence. The latter supervises the entire assessment and tax-collecting systems and controls county auditors and treasurers. The usual state officers are nearly all elected by the people and receive \$1900. There is a board of three railroad commissioners with power to fix rates. The governor is paid \$3,000.

Judiciary.—The supreme court of five judges (1912), elected by the legislature for eight years, has mainly appellate jurisdiction in errors in law. It names when necessary special circuit judges. The state is divided into twelve circuits. A judge, elected by the legislature for four years, resides in each circuit but the constitution declares that the judges of circuit courts shall interchange circuits with each other, and the general assembly shall provide therefor. Since 1865 there have been no chancery courts; but equity cases are frequently referred to the "master in equity" or a specially appointed "referee." Judges must state the law but may not charge the juries in respect to matters of fact. The "code," containing the complete statute law at the given date, is issued every ten years. A county in which a lynching occurs is liable to the legal representatives of the lynched person for damages of not less than two thousand dollars.

Suffrage.—During the two years preceding 1898 every adult male able to explain the constitution when read to him was enrolled as a voter for life. This guaranteed suffrage to all white men then of age. Beginning with 1898, to be registered one must read and write any section of the constitution or pay taxes on \$300 worth of property. Negro registration is negligible (see SUFFRAGE, NEGRO), and the qualifications are scarcely considered worth while. The uncontested supremacy of the Democratic party renders its direct primaries (made state-wide in imitation of several counties in 1890) for nominating candidates including United States Senators, by practically universal white vote, the only elections of importance. No registration is required but only enrollment in the club of the precinct in which the voter resides. Only presidential electors are

nominated by convention (*see* PARTY ORGANIZATION IN THE SOUTH).

Miscellaneous.—Separate schools are required for whites and negroes. Attendance is not compulsory. Marriages must be licensed and registered. Divorce is unconstitutional. Marriage is forbidden between a white and a person of one-eighth or more negro blood. In 1892 the state assumed monopoly of the liquor traffic. The moral purpose soon gave way to profit seeking. The revelation of widespread corruption in central and local boards led to the abolition of the "State Dispensary" in 1907. Liquor is legally sold by a few counties under a county board; most of the counties have prohibition, the matter being decided by local vote. The constitution forbids any system under which liquor is sold in less quantities than one-half pint or is sold at night or to be drunk on the premises.

Local Government.—The forty-four counties are divided into townships. The latter, though bodies corporate, are of slight importance beyond their use as tax-assessing and magistrates' districts, their permitted functions being undeveloped. The county is the administrative, judicial and political unit. Its elected commissioners are solely administrative. The tax levy and special laws for the county are agreed upon by the legislative delegation, whose recommendations are usually enacted without contest by the legislature. The new rural police in a number of counties promises to become general. Municipalities are under limits in taxing and borrowing, but have valuable constitutionally guaranteed rights against the legislature. Columbia and Stanbury are under commission government, sentiment for which is growing elsewhere (*see* COMMISSION SYSTEM OF CITY GOVERNMENT). The "City-Manager" type of commission government originated with Sumter in 1912.

Party.—The state has been overwhelmingly Democratic except at exceptional periods when standing aloof from parties. For years the menace of negro rule so overshadowed as to prevent political progress, and this still sets exacting bounds. About 145,000 whites vote in the August primaries and 60,000 in the regular election; about 4,000 negro Republicans vote in the latter. The few hundred white Republicans are office-holders or seekers for offices or recent arrivals from the North. From 1890 to 1902 the whites were bitterly divided into Reformers ("Tillmanites") and Conservatives ("Anti-Tillmanites"). Prohibition and local option (as the liquor forces call themselves) have been prominent in recent years.

Population and Area.—South Carolina embraces 30,570 square miles. The population has been as follows: 249,073 in 1790; 415,115 in 1810; 502,741 in 1820; 703,708 in 1860; 995,577 in 1880; 1,340,316 in 1900; 1,515,400 in 1910.

See CONSTITUTION MAKING IN U. S.: CONSTITUTIONS, STATE, CHARACTERISTICS OF; CONSTITUTIONS, STATE, LIMITATIONS IN; GOVERNOR; RECONSTRUCTION; STATE EXECUTIVE; STATE GOVERNMENT; STATE LEGISLATURE.

References: D. F. Houston, "Critical Study of Nullification in South Carolina" in *Harvard Hist. Studies*, III (1896); E. McCrady, *South Carolina under the Proprietary Government* (1897), *South Carolina under the Royal Government* (1899), *South Carolina in the Revolution* (1901); J. S. Reynolds, *Reconstruction in South Carolina* (1905); W. A. Schaper, "Sectionalism and Representation in South Carolina" in *Am. Hist. Assoc., Annual Report*, 1900, I, 237-463; W. R. Smith, *South Carolina as a Royal Province* (1903); F. N. Thorpe, *Federal and State Constitutions* (1909), VI, 3241-3354; *South in the Building of the Nation* (1909), II, 1-121; D. D. Wallace, *Civil Government of South Carolina* (1911), *Constitutional Hist. of South Carolina* (1899), 1725-75.
D. D. WALLACE.

SOUTH DAKOTA. History.—Previous to the Lewis and Clark expedition little was known of the region now called South Dakota. Up to 1859, when immigration and settlement really began, the Indians roamed over the prairies unchecked by white men. In 1861, Dakota Territory (*see*) was created and included at first the area of the present states of South Dakota, North Dakota and parts of Montana, Wyoming and Idaho. The rich farming and stock raising lands and especially the gold mines, which were discovered in the Black Hills in 1874, attracted people. The population of South Dakota amounted in 1861 to 2,402; in 1870 to 11,776; in 1890 to 328,808; in 1900 to 401,570; and in 1910 to 583,788 inhabitants.

The agitation for the division of Dakota Territory and the creation of two states instead of only one began about 1879 and grew so strong that constitutional conventions were held in 1883 and 1885. Both constitutions were ratified by the people. State officers and members to the legislature, also members to Congress, were elected under the constitution of 1885 and they even came together for the purpose of constituting themselves the government. The advocates of statehood argued that some of the best interests of South Dakota were at stake. The reservation of the public lands, especially those for school purposes, the removal of the territorial capitol in 1882 from Yankton to Bismarck, the disadvantages that would result from the vast extent of the territory if organized into one state instead of two and the divergence of the characteristics and economic interests of the people of the southern and northern sections, were grave matters of consideration with them. The Democratic party in control of the Federal Government was bitterly blamed for not granting the numerous petitions in behalf of statehood.

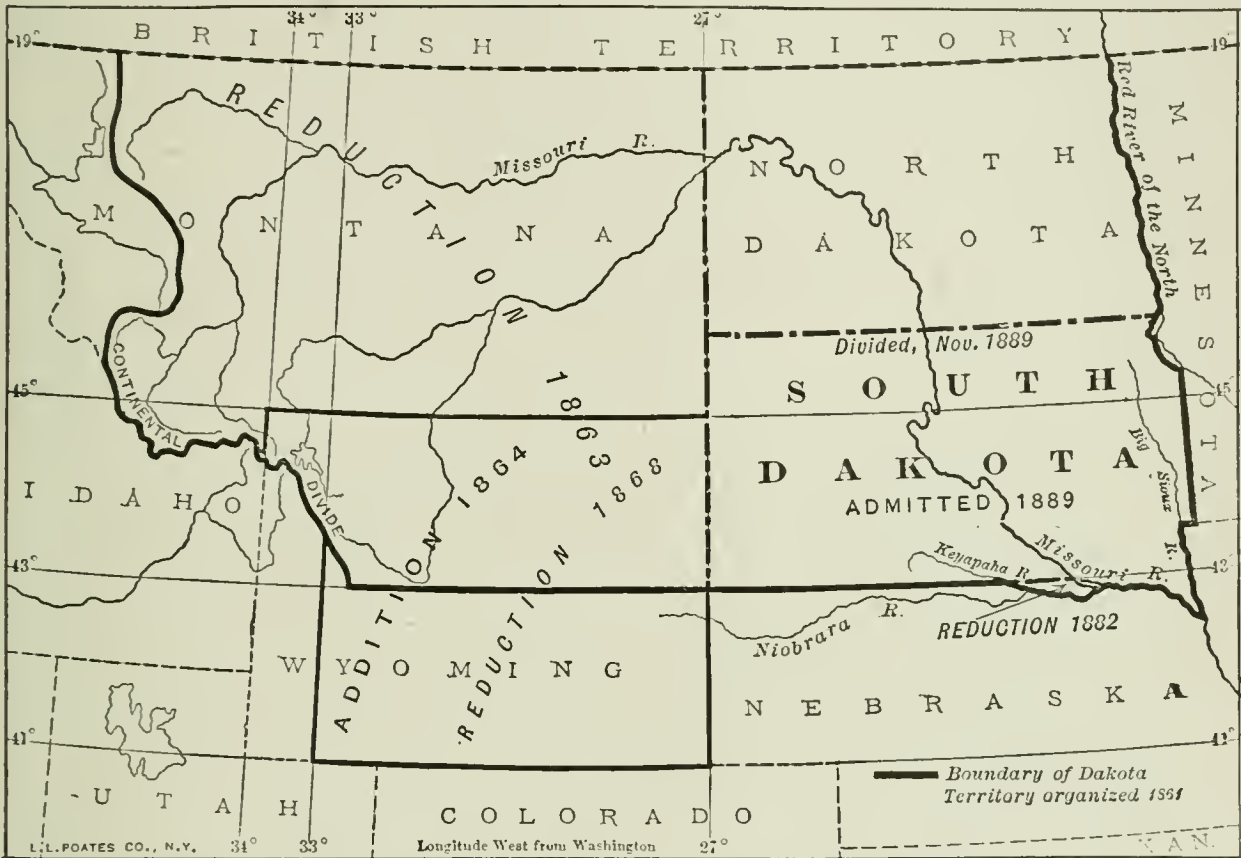
SOUTH DAKOTA

The antagonism then engendered, and the admission into the Union during a Republican administration, were factors in making South Dakota so strongly Republican. Only twice in its history, in 1896 and 1898, was a governor elected who was not a Republican and in those years the defeat of the Republican candidates was due to the Populistic wave.

Constitution.—The Enabling Act, passed in 1889, fully satisfied the people; their interests were protected. It stated that at the election of the members to the constitutional convention the electors be allowed to vote either in favor of, or against the resubmission of the "Sioux Falls' Constitution" of 1885. Since the great majority of the electors favored re-

spectively. The two houses had in 1907, 89 and 45; in 1909, 104 and 45; in 1911, 104 and 45; in 1913, 105 and 45 members, respectively.

South Dakota favors progressive legislation. "Not more than five per centum of the qualified electors . . . shall be required to invoke either the initiative (*see*) or the referendum" (*see*). Since 1898, when the initiative and referendum amendment was passed, the initiative has been invoked four times, one measure prevailed, two were defeated by the voters, and one (1913) is still pending. The referendum has been invoked eleven times, six laws were upheld and five vetoed. No provision exists by which the people can in-



BOUNDARIES OF THE STATE OF SOUTH DAKOTA, SHOWING TERRITORIAL CHANGES

submission, the constitutional convention made only very few alterations, most of which were necessary because of the division of the territory into two states.

The state government is divided into the traditional executive, legislative and judicial departments. The members of the first two branches are elected biennially, the five judges of the supreme court for six years, the twelve judges of the twelve circuit courts for four years, and the sixty-one county judges for two years. The governor has "authority to require the opinion of the judges of the supreme court upon important questions of law." A two-thirds majority vote of both houses of the legislature passes a bill over the governor's veto. The number of members of the house of representatives and senate must not be less than 75 and 25 nor more than 135 and 45

initiate a constitutional amendment. The constitution may be amended in two ways: (1) the majority of the members of both houses of the legislature may submit a provision to the electors; (2) a two-thirds majority of both houses may submit the question of calling a convention to the electors. The alterations submitted to the electors either by the legislature or by the constitutional convention must be ratified by a majority of the voters upon them. The first method only has been invoked, and nineteen of the thirty-two measures have been ratified. The primary election law (*see* PRIMARY, DIRECT), passed in 1907, is used for all elective officers, including that of United States' Senator. Women may vote in school elections. The commission (*see*) plan of government and the recall (*see*) have been established in a number of towns.

References: South Dakota Revised Codes (1903); D. Robinson, *Complete Hist. of South Dakota* (1904); South Dakota State Historical Society, *Collections, 1725-1775* (1899); F. N. Thorpe, *Federal and State Constitutions* (1909), VI, 3355-3408.

CARL CHRISTOPHELSMEIER.

SOVEREIGNTY OF THE PEOPLE. Early Theories.—The problem of locating the repository of sovereignty, especially in the composite states of today, is not always a simple task. The bearer of the sovereign power may, in fact, be a priest or prophet, a military dictator, an aristocracy of nobles, a king or prince, a convention, a legislative body, a popular assembly or the electorate itself. Examples of all these have occurred in the past. In ancient Rome, the idea that the people were the original source of political authority found expression in the well known maxim: "The will of the prince has the force of law, since the people have transferred to him all their right and power." The revival of interest in the Roman law in the twelfth century, together with the wide spread study of the newly discovered works of Aristotle, stimulated the spread of the doctrine that the ultimate source of political authority was the people rather than the emperor. So widely prevalent did this idea become, says Gierke, that from the end of the thirteenth century an axiom of political theory was that the justification of government lay in the voluntary submission of the community ruled. The idea, however, was vaguely stated and for a long time no attempt was made to work out a systematic and logical formulation of the theory. To combat the doctrine of sovereignty as an absolute and unlimited power, a view enunciated by Bodin in 1576 (see SOVEREIGNTY, THEORY OF), there arose in the sixteenth and seventeenth centuries a group of political writers known as "monarchomachs," who maintained the contract theory of the origin of the state, the original sovereignty of the people and the right of the people to resist rulers who were guilty of violating the compact. The best known of these writers were Johannes Althusius who, in his *Politica Methodice Digesta* (1609), developed the theory that the state was founded on contract and that sovereignty not only originated in the people but that it remained permanently in their hands. Other writers of this school who defended in one form or another the doctrine of popular sovereignty were Hotman, Buchanan, Langnet, Mariana and Suarez. (Gierke, *Johannes Althusius und die Entwicklung der Naturrechtlichen Staatstheorien* [1880] 123.) In the seventeenth century, the idea that the people were the ultimate source of political power found two able English champions in Milton and Locke. This doctrine was, indeed, the most fundamental principle of Milton's political philosophy and

it underlay the contract theory of the state as expounded by Locke (see SOCIAL COMPACT THEORY). Locke ascribed legal sovereignty to the legislature which, however, was only a "fiduciary body" entrusted with the power of the people who were the ultimate sovereign. "There remains in the people," he said, "a supreme power to remove or alter the legislative" (see POLITICAL THEORIES OF ENGLISH PUBLICISTS).

France.—But the political writer who pushed the theory of popular sovereignty to its extreme and whose influence was, perhaps, most responsible for the spread of the doctrine was Rousseau. In his *Contrat Social* (1762), he laid down the proposition that sovereignty was nothing but the exercise of the general will, that is, the will of the people, and that the sovereign was the collective mass united by the social compact. The theory of sovereignty thus formulated by Rousseau became the basis of the French Revolution and it found repeated expression in the several constitutions which followed the outbreak of the Revolution. Thus in the Declaration of Rights of 1789 it was asserted that "the source of all sovereignty resides essentially in the nation" (Art. 3). In the declaration of war issued by the National Assembly in 1792, it was declared that sovereignty belongs only to the people who were limited only by the rights of posterity and who could delegate no power which was irrevocable. Again in the constitution of 1793, it was declared that "every individual who usurps the sovereignty may be put to death by freemen" and "when the government violates the rights of the people, insurrection is for the people, and for every portion of the people, the most sacred of rights and the most indispensable of duties" (Art. 35).

America.—In America at the time of the Revolution, the idea that the people were the ultimate source of all political authority became a fundamental principle of American political theory. The doctrine was asserted in the Declaration of Independence that "governments derive their just powers from the consent of the governed," and it was repeatedly declared in the political addresses and pamphlets of the time that the people were the source of all legitimate political power and that the right to alter their governments in such manner as they might think expedient belonged to them at all times. These American principles were a natural product of English political theory, and were based on the literature of the seventeenth century; they obtained vitality and strength from the exigencies of argument against the absolute power of Parliament.

These ideas were formally embodied in the state constitutions adopted after the outbreak of the Revolution, a common form of expression being: "all government of right originates from the people," or "all power is vested in and consequently derived from the people

and that magistrates are their trustees and servants and at all times amenable to them." In several, the doctrine of non-resistance against arbitrary power and oppression was declared to be "absurd, slavish and destructive of the good and happiness of mankind" (see REVOLUTION, RIGHT OF). In some form or other, the doctrine of popular sovereignty, the right of the people to change their forms of government whenever in their judgment the public good requires, and even the right of revolution, are asserted in many of the state constitutions now in existence, and whether so formally declared or not, there are few who would dispute these rights, so deeply rooted in our political system have they become. It may now be confidently asserted that everywhere in America and Europe the sovereignty of the people in some form or other is a fundamental political principle of almost universal recognition. Though the idea has, as has been stated above, had able defenders almost from the beginning, its realization in practice has been the work of the past century. As a living, working principle, it came into existence with the rise of popular government and reached its full fruition with the triumph of democracy of which it is a logical and essential result.

Differing Meanings.—While the sovereignty of the people is now an almost universally recognized political fact, the phrase has a variety of meanings and if accepted without limitation or condition, it may lead to mischievous results. To hold that the people under all conditions and circumstances are sovereign would be to ignore the fundamental distinction between power legally possessed and exercised and power unlawfully exercised, through illegal methods. While the people are in a sense the depository of the supreme power in the state, they may rightfully and lawfully exercise it only at the times, in the modes and under the conditions which they have themselves prescribed and pointed out in the constitution and statutes, and any attempt to exercise their power in any other manner would be revolutionary in character and should be resisted by the legally constituted authorities.

Again the sovereignty of the people as here understood has reference to the people in their legally organized capacity, not as an unor-

ganized mass, for in the latter case, the people would be acting as a mob, and not through legally constituted agencies. Except in pure democracies where the people are capable of assembling in their primary capacity for the purpose of exercising their power directly, the sovereignty of the people can be exercised only through representatives or, as where the institution of the initiative and referendum prevails, through the forms of a general election. In practice the sovereignty of the people has reference only to that portion of society which is politically enfranchised, that is, the electorate. In a still narrower sense, it might mean only that portion of the electorate which actually exercises the power of voting in a particular case. But of course the compelling influence in the state is not limited to those persons who have a right to vote. It may with truth be asserted that the determining influence in a democratic state is public opinion, and this opinion emanates from those not possessing the suffrage as well as from those who do. Thus in a broad and non-technical sense, it might be said that the aggregate sentiment of the community, the collective opinion of the mass of the population, rather than that merely of the electorate, is sovereign.

That which from hour to hour in every country governs despotically or otherwise produces the obedience, making political action possible, is the accumulated and organized sentiment felt toward inherited institutions, made sacred by traditions; . . . hence it is undeniable that, taken in its widest acceptation, the feeling of the community is the sole source of political power.

See POLITICAL THEORIES, ANCIENT AND MEDIEVAL; POLITICAL THEORIES OF MODERN CONTINENTAL PUBLICISTS; SOCIAL COMPACT THEORY; SOVEREIGNTY, THEORY OF.

References: J. C. Bluntschli, *Theory of the State* (1892), VII, ch. ii; T. M. Cooley, *Constitutional Limitations* (7th ed., 1903), ch. xvii; C. E. Merriam, *Hist. of the Theory of Sovereignty since Rousseau* (1900), introduction and chs. vi-vii, *Am. Polit. Theories* (1903), ch. ii; H. Sidgwick, *Elements of Politics* (1897), ch. xxi; W. W. Willoughby, *The Nature of the State* (1903), ch. ix; W. Wilson, *Old Master and Other Essays* (1893), ch. iii; H. L. Osgood, "Political Theories of the Puritans" in *Pol. Sci. Quart.*, VI (1891), 1-28, 201-231. JAMES W. GARNER.

SOVEREIGNTY, THEORY OF

General Definition.—The term "sovereignty," from the Latin *Suprema potestas, superanus*, seems to have first been employed by Bodin in his celebrated work, *De la Republique*, published in 1576, although the idea itself is as old as Aristotle. Bodin defined sovereignty (*Souveraineté*) as the *summa in cives ac sub-*

ditos, legibusque soluta potestas, the supreme power of the state over citizens and subjects, unrestrained by law. Grotius, who later discussed the subject, defined it as "the supreme political power vested in him whose acts are not subject to any other and whose will cannot be overridden." Blackstone in his *Commentaries*

on the *Laws of England* conceived it to be "the supreme authority in which the *jura summi imperii* reside," a definition later quoted with approval by Justice Story of the United States Supreme Court. Most writers agree that it is the original, supreme and legally unlimited power which exists in every independent political community to command and compel obedience. It is this power which fundamentally distinguishes the state in *toto genere* from all other associations of mankind and which, therefore, constitutes its highest and most essential characteristic.

Sovereignty may reside in a single person, an assembly of persons or in the people themselves, depending upon the form of organization of the state, though in practice, it is no longer exercised by a single individual except in the few remaining absolute monarchies of Asia. It is true that the crowned heads of Europe are officially designated as "sovereigns," but they are such only in a nominal or titular sense, the actual sovereign power being either in the parliament, a constituent assembly or in the electorate.

Legal and Political Sovereignty.—As actual sovereignty may be distinguished from titular sovereignty, so legal sovereignty may be differentiated from political sovereignty, the distinction being mainly the difference between the juristic and the popular conceptions. The legal sovereign is that authority which is capable of formulating and expressing in legal form the supreme will of the state. Its commands, when properly formulated, must always prevail even against the expressed will of the electorate, the principles of morality or the prescriptions of the divine law. It is the sovereignty recognized by the courts, and the sovereignty to which the law attributes legal force.

But behind the legal sovereign—the person or assembly which alone is capable of laying down supreme legal commands—is a power whose mandates when clearly expressed through the forms of a general election will in practice be obeyed by the legal sovereign and whose will must ultimately prevail in the state. This is the political sovereign, that is the sovereignty of the electorate. Though incapable of formulating and expressing in legal form the will of the state, except where the principle of the pure democracy prevails, its commands will, nevertheless, if emphatically pronounced and fully understood, usually be obeyed by the legal sovereign. In case of conflict between the two wills, that of the legal sovereign takes precedence in practice since only that which has been embodied in legal form can have the force of law, although, in fact, it may not be in accord with the actual desires of the people (*see SOVEREIGNTY OF THE PEOPLE*). "The legal sovereign," says Professor Ritchie, "is the lawyer's sovereign *qua* lawyer, the sovereign beyond which lawyers and courts refuse to

look." With the wishes or feelings of the electors, the lawyer as such has nothing to do. Certain writers, however, refuse to recognize the distinction between legal and political sovereignty on the ground that it apparently involves the recognition of a dual sovereignty. But in reality what may appear to be two sovereignties is, in fact, but two forms of manifestation of one and the same sovereignty, through different channels. In case the two do not harmonize, that is, in case the expressed will of the legal sovereign is different from that which the electorate has pronounced, the legal sovereign should be reorganized or reconstituted by means of a new election in order that the will of the electorate may be made to prevail.

The distinction between legal and political sovereignty is most prominent in countries like Great Britain where constitutional and statutory enactments emanate from the same authority and where there is no legal distinction between constitutional and statutory law. There the Parliament is both legislative body and constituent assembly. Legally it is omnipotent and may alter the constitution by the same legal processes that are followed in the enactment of ordinary legislation and with the same ease and facility. It is thus the legal sovereign of the empire and no legal authority exists which can restrain it or overrule its acts. Yet over and above the Parliament there is the electorate whose will when pronounced at a general election must ultimately be obeyed by Parliament. The lawyers do not recognize this sovereignty, the courts take no notice of it and even the Parliament itself might lawfully ignore and resist it, but in the end its will must be obeyed if the electorate so insists. In this sense, the electorate rather than the Parliament is the sovereign.

De Facto vs. De Jure Sovereignty.—A distinction may also be made between the sovereignty which is actually obeyed by the inhabitants, though it may not rest on a strict legal basis, and the sovereignty which has legal right on its side but which may be temporarily excluded or disorganized as a result of revolution or foreign conquest. Numerous examples of *de facto* sovereignties have occurred in history. Such was the sovereignty wielded by Cromwell after the dissolution of the Long Parliament, that of Napoleon after the overthrow of the Directory, that of the English convention which bestowed the crown on William and Mary, and that of the Southern Confederacy from 1861 to 1865. *De jure* sovereignty, on the other hand, has its foundation on law rather than upon physical power, and the individual or assembly by whom it is exercised can always show a legal right to rule, and is, therefore, lawfully entitled to the obedience of the inhabitants. As a matter of fact, the sovereign who is able to maintain his mas-

tery by force usually becomes in the course of time the legal sovereign through the acquiescence of the inhabitants or through the reorganization of the state. Some writers, like Austin, decline, however, to recognize the distinction between *de jure* and *de facto* sovereignty for the reason that the terms "lawful" and "unlawful" cannot properly be employed to describe sovereignty. The only law, says Austin, by which a person or body of persons can be sovereign is its own law or will, and to say that it is the *de jure* sovereign is tantamount to saying that it is legal because it declares itself to be so. Governments, Austin argues, may be *de facto* or *de jure*, but such terms cannot properly be applied to describe the nature of sovereignty.

Attributes of Sovereignty.—The distinctive characteristics of sovereignty are permanence, exclusiveness, all comprehensiveness, inalienability, absoluteness and indivisibility. Sovereignty does not cease with the death, dissolution or dispossession of the person or body in whom, for the time being it is reposed, but immediately shifts to a new bearer, somewhat as the center of gravity changes from one part of a physical body to another whenever it undergoes change. By virtue of the attribute of exclusiveness, there can be but one sovereignty in the state at the same time. To hold otherwise would be to deny the principle of the unity of sovereignty and to recognize the possibility of an *imperium in imperio*. Sovereignty is all comprehensive, that is, it embraces all persons or associations within the state, except such as for reasons of public policy or international comity the state may voluntarily exempt from its jurisdiction. Examples of such persons are diplomatic representatives and the heads of other states who may be temporarily within its territory. Sovereignty is generally considered to be inalienable, that is, it cannot be ceded away without self-destruction, though of course it may be shifted to a new repository or abiding place whenever the state is reorganized. A few writers, however, hold a contrary view. Sovereignty is also imprescriptible that is, it cannot be lost by mere lapse of time as property in land may be lost by prescription at private law.

An important attribute of sovereignty is its quality of absoluteness, that is, it cannot be legally limited. It is an original not a derived power and being supreme there can be no authority above it. To hold that it is capable of being limited by a higher power is a *contradictio in adjecto*. Many writers, however, recognize the existence of certain moral limitations upon sovereignty, arising from the natural and inherent rights of man, rights which, it is maintained, belong to the individual independently of the state and of which he cannot justly be deprived by any authority. Other alleged limitations on sovereignty are those

arising from the teachings of religion, immemorial custom, long established traditions, the rules of international law, etc. But in legal effect they are no limitations at all except in so far as the state chooses to recognize them and be bound by their prescriptions, that is, they are nothing but self-imposed restrictions which may or may not be regarded. Whatever authority is capable of imposing limitations upon the power of the state is itself sovereign; supreme power, limited by positive law, is, as Austin remarks, a flat contradiction in terms. The criticism sometimes made against the doctrine of unlimited sovereignty, namely, that it involves the legal despotism of the state is not well founded. Granting that sovereignty could or should be limited, the individual would still be subject to that which imposes the limitation. John Austin, with his usual clearness and incisiveness, stated the matter correctly when he said:

The power of the superior sovereign would still be absolutely free from the fetters of positive law. For unless the imagined restraints were ultimately imposed by a sovereign not in a state of subjection to a higher or superior sovereign, a series of sovereigns extending to infinity would govern the imagined community, which is impossible and absurd.

Nothing is to be gained by trying to avoid the conclusion that sovereignty is incapable of being restricted. It is necessary to recognize in the state the existence of a power to which all persons and things are subject, and the more fully sovereign this power, the more secure and permanent must be the rights and liberties of the people.

Indivisibility of Sovereignty.—Sovereignty, as already stated, is a unity and cannot be divided. If there were several supreme wills in the state, each empowered to lay down commands and to exact obedience from the inhabitants, conflicts and ultimate paralysis of authority would inevitably result. If these wills were coördinate, obviously neither could be sovereign, and if one were superior and the other subordinate, manifestly the former would be sovereign and the latter subject, and what would appear to be a division would in fact be no division at all. This truth was clearly stated by John C. Calhoun in his *Disquisition on Government* where he declared that "sovereignty is an entire thing; to divide it is to destroy it. It is the supreme power in the state and we might just as well speak of half a square or half a triangle as of half a sovereignty." The theory of the unity of sovereignty, however, is not universally accepted by political writers and jurists, many of whom defend the principle of a divided sovereignty, especially in states having the federal system of government. In the United States, the doctrine that sovereignty is divided between the Union and the states which compose it, was maintained by both Hamilton and Madison in the *Federalist* and was early adopted by the

Supreme Court. It has also received the approval of such political writers as Story, Cooley, de Tocqueville, Wheaton, Halleck, Hurd, Bliss and others, though, as already stated, it was repudiated by Calhoun. The opinion now generally held is that no such division exists, but what the states retain is mere local autonomy or local self-government (*see* STATE SOVEREIGNTY). Many German writers have also defended the divisibility theory, among them being Waitz, von Mohl, Bluntschli, Brie, Westerkamp, Jellinek, Bornhak, Schulze and others. But if we adhere to the definition of sovereignty laid down in the beginning of this article, the theory of a dual sovereignty cannot be accepted. Nevertheless while, according to our view, sovereignty itself cannot be divided, its emanations or manifestations may be divided and expressed through different channels. Calhoun clearly expressed this truth when he said:

There is no difficulty in understanding how powers appertaining to sovereignty may be divided and the exercise of one portion be delegated to one set of agents and another portion to another, or how sovereignty may be vested in one man, in a few, or in many. But how sovereignty itself, the supreme power, can be divided . . . it is impossible to conceive.

In federal states, therefore, it is the powers of government rather than sovereignty that are divided and distributed between two different sets of organs: the supreme will itself is a unit undivided and incapable of division.

Essential Attribute of the State.—Some writers, notably Germans, maintain that sovereignty is not a necessary constituent of the state, in short, that there may be non-sovereign as well as sovereign states. According to these writers, the primary test of state life is not sovereignty, not the power of self-determination and independence of action, but the power to command and compel obedience. According to this view, the component members of federal unions may rightfully be treated as states since they possess all the marks of state organization except sovereignty, and indeed, it is maintained, they possess this characteristic to a partial extent. Once fully sovereign, they joined themselves together in a federation and delegated certain powers of government to a central organization, but they did not cease

thereby to be states. But if the possession of mere local autonomy in respect to certain matters be a sufficient test of the state character, the distinction between provinces, municipalities and other local bodies, on the one hand, and states, on the other, disappears or becomes indistinct. If mere power to lay down commands and exact obedience thereto be a sound test of statehood, it is difficult to see why the self-governing colonies of England as well as the component members of federal unions do not equally possess the characteristics of states (*see* STATE, THEORY OF).

Whether sovereignty is an essential constituent of the state must depend largely upon our conception of the nature of the state and of sovereignty itself. If we accept the principle of a divided sovereignty together with the idea that the state is merely a community possessing wide powers of local autonomy, the existence of non-sovereign states logically follows. But if we adhere to the definition of the state laid down elsewhere in this work (*see* THE STATE, THEORY OF), and maintain the unity of sovereignty, the existence of a state without sovereignty is inconceivable. Such a community is in reality nothing but a dependency or part of another state.

See POLITICAL SCIENCE; POPULAR SOVEREIGNTY; STATE SOVEREIGNTY; STATE, THEORY OF; UNITED STATES AS A FEDERAL STATE; and under POLITICAL THEORIES.

References: J. Austin, *Lectures on Jurisprudence* (1832), Lecture vi; J. W. Burgess, *Political Science and Constitutional Law* (1892), I, Bk. II, ch. i; J. Bryce, *The Nature of Sovereignty, Studies in History and Jurisprudence* (1901), II; J. Dewey, "Austin's Theory of Sovereignty" in *Polit. Sci. Quart.*, LX, 1894; A. V. Dicey, *Law of the Constitution* (4th ed., 1910), Lecture ii; T. E. Holland, *Elements of Jurisprudence* (11th ed., 1910), 49-54, 365-369; C. E. Merriam, *Hist. of Sovereignty since Rousseau* (1900); G. C. Lewis, *Use and Abuse of Political Terms* (1898), 41-57; D. G. Ritchie, "The Conception of Sovereignty," in *Acad. of Pol. Sci., Annals*, 1891, I, 385-411; H. Sidgwick, *Elements of Politics* (1897), ch. xiii; W. W. Willoughby, *Nature of the State* (1903), chs. ix, xi.

JAMES W. GARNER.

SPAIN, DIPLOMATIC RELATIONS WITH

From 1775 to 1808.—The ruling motive of Spanish diplomacy in regard to America was fear of Anglo-Saxon aggressiveness. From the reconstruction of 1783 the North American frontiers of Spain marched with those of the United States from Canada southward and thence eastward to the Atlantic. Spain had resolutely withheld from alliance with the United

States during the Revolution; and it was 1795 before a treaty was made which allowed the right of navigation of the Mississippi throughout its length. The treaty of 1795 was far from settling all outstanding questions. Spain was now, and for twenty years to follow, under the heel of revolutionary France. She was forced to lend herself to the French despoilment of

American shipping, and thus arose large claims for compensation. In addition Spanish vessels in the West Indies operated on their own account in a fashion largely piratical. The general revolt of the South American provinces led to a long period of privateering shared in by vessels illegally fitted out in the United States to cruise under the flags of the revolted provinces; and the transfer of Louisiana kept the diplomacy of the two countries at fever heat for years. Notwithstanding some knowledge of the secret transfer to France by Spain in 1800 Jefferson, on May 11, 1802, offered to guarantee to Spain her possessions beyond the Mississippi if she would cede the island of New Orleans; the whole of Louisiana became ours. An unfounded claim by the American Government to West Florida led to taking actual possession in 1811 to 1814, a proceeding practically justified, however, by the anarchy which prevailed in the region.

From 1808 to 1823.—Spain, also, was anarchic during the French occupation from 1808 to 1814. During the War of 1812 a British force, without consent from the Spanish authorities, occupied Pensacola. Jackson drove out the British and in 1814 temporarily occupied the place. Spanish sovereignty was again ignored in 1818 when Jackson pursued the Indians into Florida, seized St. Marks, Pensacola and Fort Barrancas, and sent the garrison to Cuba. Spain vainly protested but the vigorous attitude of the Secretary of State brought Spain to renew previously pending negotiations for the Floridas, resulting in the treaty of Feb. 22, 1819, by which Spain gave up all claim to both East and West Florida. The United States accepted the Sabine as a western boundary, thence to its head, thence north to the Red River, along the latter to longitude 100°, north to the Arkansas, following its south bank to its head, thence north to latitude 42° and thence west to the Pacific. After a troublesome delay ratifications were exchanged February 22, 1821.

Meanwhile the Spanish-American empire had been crumbling away. The home country was helpless. An attempt in 1823 to extend the efforts of the Holy Alliance to the resubjugation of Spanish-America led to the declaration of the Monroe doctrine (*see*).

From 1823 to 1860.—Cuba and Porto Rico only remained to Spain and on the affairs of the former hinged most of the succeeding difficulties of Spain with the United States. At that time there existed a morbid fear of the transfer of Cuba to England or France, which would mean a powerful rival on the flank of the United States, and freedom to the blacks, a situation on which the condition of Hayti threw a lurid light and which offered dangerous suggestions of freedom to the slaves of the southern states. Hence assurance was given Spain in 1840 and several times later, that she could

"securely depend upon the United States to aid in preserving or recovering" the island.

In 1848 the American government changed its policy and made proposals to purchase Cuba. Now began an era of Cuban insurgency and filibustering which ended only with the war of 1898. The Mexican War gave impetus to the idea of revolt in Cuba which was fomented by four unsuccessful attempts by Narciso Lopez. The first was in 1848, the second in 1849, against which President Taylor promptly issued a warning proclamation. In 1850 Lopez made a third attempt, aided morally by southern sentiment and materially by prominent men. His expedition landed, but no signs of support were shown. Returning to the United States Lopez was tried for violation of the neutrality laws, but escaped punishment. A Spanish vessel seized two of his vessels in Yucatan—not Spanish territory—and condemned the crews and vessels, the United States weakly acquiescing. Lopez's fourth expedition in 1851 landed with 480 men mostly Americans. The whole force surrendered. Lopez and 53 others were garroted at Havana. This led to an attack at New Orleans on the Spanish consulate by a mob.

In 1851 the American Government declined a remarkable proposal for joint action by England and France "to prevent by force any adventurers of any nation from landing with hostile intent upon the island of Cuba." A tripartite agreement was then proposed. All three to disclaim "now and hereafter all intention to obtain possession of the island of Cuba." This was answered (1853) in an effective note by Secretary of State Edward Everett.

In 1854 the seizure of the mail steamer *Black Warrior* on an unjust charge of violating the customs regulations, nearly brought war. The Spanish authorities settled with the owners of the ship, while the government reclamation was still pending.

The United States now began a systematic policy of Cuban annexation: failing to bring it about by the *Black Warrior* episode, the Pierce administration directed Buchanan, Mason and Soule, ministers to England, France and Spain, to meet and consult regarding Cuba. The outcome was the so-called Ostend Manifesto (*see*) which advocated taking Cuba by force if Spain would not sell. The document was not approved by the administration, and the times did not favor either purchase or seizure.

From 1861 to 1878.—During the American Civil War Spain attempted to reconquer Santo Domingo, which was naturally disapproved by the United States. Not until 1868 when Cuba revolted against Spain was the Spanish-American situation again acute. The diplomatic difficulties were accentuated by savage edicts of the Cuban Governor-General, by the confiscation of property of American citizens—

mostly of Cuban birth—and by the general ruthlessness with which the war was waged on both sides. When Grant became President in 1869 he favored intervention and was with difficulty dissuaded by Secretary Fish from a proclamation recognizing belligerency. Nevertheless the United States made vigorous representations to the Spanish Government and proffered its good offices toward a peace based on the independence of Cuba. The Spanish Government of the moment was a regency with General Prim, practically dictator. He favored the sale of Cuba to the United States, and his temporary absence at a critical time seems to have caused the break down of the scheme. In 1870 Amadeo was made king; Prim's assassination almost at once followed; thereafter there was no question of sale.

Filibustering from the United States was active throughout the war; the most notable case being that of the *Virginus* (*see*). Her pursuit and capture on the high seas, October 31, 1873, and the slaughter of her captain and 53 of her crew at Santiago, created violent feeling. The American fleet was concentrated at Key West and the American minister had demanded his passports when Spain yielded to the American demands and restored the ship.

The Cuban war with every mutual brutality continued. In November, 1875, Mr. Fish sent to Caleb Cushing, then minister at Madrid, and confidentially to all American ministers in Europe, a despatch which became famous as "No. 266," declaring the necessity of foreign interference in Cuban affairs, if war was to be avoided between the United States and Spain. This is the only suggestion by the United States that Cuba was an international question, and that its status should be determined by international agreement. War would certainly have then occurred had the President not held the situation firmly in his hands instead of leaving it to Congress. January 12, 1877, a protocol was signed at Madrid making persons charged with sedition, conspiracy, etc., in Cuba subject only to courts of ordinary jurisdiction unless captured with arms in hand, an agreement which became of momentous importance in the insurrection of 1895. In 1878 Martinez Campos, a wise and large-minded officer, effected peace in Cuba on a basis of emancipation of the slaves.

From 1879 to 1897.—During the next period the relations with Spain turned chiefly on Cuban commerce, which was subject to regulations intended to throw the trade into the hands of Spanish merchants. In 1891 a commercial treaty was negotiated. Its abrogation in 1894, which brought deep distress to the Cuban sugar industry, was the real beginning of the final revolt. Many Cubans were now seeking naturalization in the United States and then returning to Cuba where they claimed special privileges.

The revolt of 1895, prepared and aided by a Cuban Junta in the United States, renewed the difficult situation of 1868–1878 though in acuter form. The insurgents ruthlessly devastated every plantation which kept in operation, on the plea of making the island valueless to Spain. The displaced laborers largely joined the insurgents. There was more humane treatment of prisoners, by both sides, than in the first war. The strenuous efforts of the United States to prevent filibustering were aided but little by the Spanish fleet in Cuba. The devastation, though chiefly by the Cubans, and the misery of the reconcentrados, produced violent feeling in the United States. The Cleveland administration, while showing admirable restraint, upheld firmly the rights of our citizens in Cuba, most of whom were of Cuban birth. The good offices of the United States were offered in a note of Secretary Olney's on April 4, 1896. The rejection of this offer proved the knell of Spanish authority in Cuba. The petty case of the filibustering schooner *Competitor* and the five unimportant persons seized on board, aroused Americans and did no good to Spain.

President Cleveland's last message (1897) justly claimed that there had been a vigorous patrol against filibusters and suits in the courts against transgressors of the neutrality laws; and that he had, while maintaining American rights, preserved not unkindly relations with Spain. The message closed with a deep note of warning to Spain.

War with Spain, 1898.—The McKinley administration came into power in March, 1897, upon a declaration in the platform of the party, "that the Government of the United States should actively use its influence and good offices to restore peace and give independence to the island." John Sherman, long one of the most violent in Congress against Spain, was appointed Secretary of State, but the affairs of the department, on account of Sherman's long continued bad health, were mainly in the hands of Assistant Secretary Day, soon, himself, to become Secretary of State. General Woodford was sent as minister to Spain, with the understanding that he was to do his utmost toward a peaceful solution of difficulties. On November 25, 1897, decrees were signed extending to the Antilles all the rights of Spaniards and offering a large scheme of autonomy. President McKinley made a sincere effort to keep the peace and in his message promised, so far as the United States was concerned, that autonomy should have a fair trial.

Events, however, worked for war. The intensity of American feeling against Spain, actively fomented by the greater part of the press, aroused the Cubans anew. They scouted the proffered autonomy, as did also the Spanish party represented by the volunteers. A private letter of Señor Depuy de Lome, the

Spanish minister at Washington, criticising the President, was purloined and published in an inflammatory translation which caused De Lome's withdrawal. February 15, the *Maine*, (*see*) was blown up in the harbor of Havana.

General Woodford continued his efforts for peace and secured from the Spanish Government, on April 9, 1898, what that Government considered an acceptance of American demands. A suspension of hostilities (not accepted by the Cubans) was declared in Cuba, and Woodford was now certain of peace. Two days later McKinley sent a militant message to Congress which in effect was a declaration of war, made certain by handing the subject of Spanish relations over to Congress. Only at the end did the President mention the yielding of Spain to all the demands officially placed before her; though the fact of Spain's yielding gives good ground for criticism of the President's course, sober judgment will probably approve his action as best in its results for all concerned. It perhaps but anticipated a necessity which would probably have come after an harrassing continuance of the difficulties which existed.

A joint resolution, April 19, 1898, declared that the people of Cuba are, and of right ought to be, free and independent, and that the Government of the United States demand that the Government of Spain relinquish its authority in the island. To this end the President was "directed and empowered to use the entire land and naval forces of the United States. . . ." A few days later war was declared to exist from and including April 21.

After 113 days of hostilities a peace protocol was signed at Washington (August 12, 1898). As soon as arrangements could be made the peace commission met at Paris. The result was the signing of a treaty on December 10, 1898, by which Spain relinquished sovereignty over Cuba, yielded Porto Rico and other islands in the West Indies, and Guam as by conquest, and ceded the Philippines, the United States paying \$20,000,000 which may be regarded as an indemnity for what was really a forced purchase, the United States having no claim upon the Philippines by conquest, as the successful attack upon Manila came a few hours subsequent to the signing of the peace protocol.

See ANNEXATIONS TO THE UNITED STATES; COMMERCIAL POLICY AND RELATIONS OF THE UNITED STATES; CUBA AND CUBAN DIPLOMACY; FILIBUSTERS TO AID INSURRECTIONS; FLORIDA ANNEXATION; L'AMISTAD CASE; LATIN AMERICA; LOUISIANA ANNEXATION; MEXICO; MIRANDA PROJECT; MONROE DOCTRINE; TREATIES OF THE UNITED STATES; WEST FLORIDA; WEST INDIES, DIPLOMATIC RELATIONS WITH.

F. E. CHADWICK.

SPANISH-AMERICAN WAR. See WARS OF THE UNITED STATES.

SPEAKER IN STATE LEGISLATURES.

In every one of the states, the lower branch of the legislature elects its own presiding officer. His title, in each case, is the "speaker." For the most part, his functions relate exclusively to the house over which he presides. New York makes the speaker *ex officio* one of the commissioners of the land office. Eleven of the states stipulate that the speaker shall stand next to the president of the senate in the line of succession, if the governor's chair falls vacant.

Because of the relatively large size of the lower branch of the legislature and because it elects its own presiding officer, the speakership in the state house of representatives has developed along similar lines to those of the speakership in Congress. The speaker appoints the house committees, determines in his discretionary interpretation of parliamentary law who may and who may not address the house, and decides points of order. In all these functions he acts as a party leader.

In several state legislatures, notably in New York, through the committee on rules strong speakers have followed their congressional model closely in effecting a centralization of legislative power. In boss-ruled states, speakers have at times worked in systematic alliance with corrupt or narrowly factional interests. The Pennsylvania and Illinois legislatures have afforded notable instances of measures "gaveled through" by speakers with a cynical disregard not only of the opposition but also of the minority within their own party, such as has never been shown in Congress. The speakership is often a stepping-stone to higher office. As presiding officer and party leader in a house of from 100 to 400 members, seventy to ninety per cent of whom have had no legislative experience, a man of skill and tact can build up a formidable personal following.

See CLOSURE; FILIBUSTERING IN LEGISLATION; RULES OF LEGISLATIVE BODIES; RULES OF STATE LEGISLATURES; STATE ASSEMBLY.

References: P. S. Reinsch, *Am. Legislatures* (1907), 162-165, 261-263; S. P. Orth, "Our State Legislatures" in *Atlantic Monthly*, XCIV (1904), 728-739. G. H. HAYNES.

SPEAKER OF THE HOUSE. Colonial Background.—Next to the President the Speaker has for about a century been the most powerful man in the government of the United States, and frequently the most conspicuous. When after the Civil War, there sprang up a literature of criticism on American institutions, one of the most frequent was that the Speaker was not an impartial moderator, as is the case in Great Britain. This was supposed to show a decline in government; as a matter of fact, the political status of the Speaker is a direct reflection of the experience of the American colonies and states. The colonial speakers were commonly heads of the

opposition to the governor, because since the governor was out of the direct control of the assembly it was necessary to have some central point for the crystallization of public sentiment.

The Speaker of the national House was left free to develop this tradition; the Constitution takes him for granted in its clauses, setting forth simply "that the House of Representatives shall choose their Speaker and other officers" (Art. I, Sec. ii, ¶ 15). The Speaker is hardly known to the statute law except in a few acts creating commissions and other bodies of which he shall be a member. The authority and power of the Speaker therefore depend entirely upon tradition, in part systematized in formal rules.

Notable Speakers.—Historically the great power of the Speaker begins in a vote of January 13, 1790, that "all committees shall be appointed by the Speaker, unless otherwise directed by the House" which remained the almost unvarying practice of the House till 1910. The first distinct party Speaker was Theodore Sedgwick, chosen by the Federalists in 1795. The first Speaker who was legislative head of the House was Nathaniel Macon from 1801 to 1807. The first Speaker to comprehend the power that he could exercise over debates by his application of the rules was Henry Clay, first elected in 1811. The first Speaker to put himself at the head of an opposition to a President was Clay, in his advocacy of a more stirring Latin-American policy during Monroe's presidency. The first Speaker to undertake the control of legislation, through appointments to the standing committees, was Henry Clay.

Among the great names in the speakership since Clay's last service in 1825, have been Andrew Stevenson of Virginia; James K. Polk, later President; Robert C. Winthrop in whose term is the first conclusive evidence of a system of controlling the floor by declining to recognize people who were not on his list; Nathaniel P. Banks, the first Republican Speaker; Schuyler Colfax, later Vice-President; James G. Blaine, six years Speaker, and later candidate for the presidency, who much resembled Henry Clay in his methods; John G. Carlisle of Kentucky; Thomas B. Reed of Maine the so-called "Czar of the House"; and Joseph G. Cannon of Illinois. It is not a mere accident that only one of these Speakers eventually came to the presidency; the Speaker is likely to arouse strong antagonism within his own party and thereby weakens his popularity. Mr. Blaine was defeated for the presidency in 1884 by the citation of some of his own decisions.

Reasons for Power.—For the importance of the Speaker there are various reasons arising out of the nature of the Federal Government. The House is a large body, has grown from 65 members in 1789 to 434 in 1913, and is engulfed in a mass of unassorted bills and

propositions. It is impossible to carry on its business without the sharp and steady guidance of a man of power. In order to get anywhere, the members must concede to the Speaker the right to make decisions which distribute the time of the House, affect its opportunity to consider and amend measures, and even to select the measures upon which they are to vote. The fairest minded Speaker is obliged to be quick and arbitrary if the business of the House is to go forward.

Another reason for a powerful Speaker is the lack of concentration of executive and legislative power. The English have surmounted that difficulty by a parliamentary system in which the ministry headed by the prime minister is responsible for drafting, introducing and pressing to a vote all the public measures. The prime minister appeals to the electorate for support because he has urged or will urge a particular kind of measure. In the Congressional system that responsibility must be taken by a comparatively small body of legislators of whom the Speaker is the obvious leader, or it will be taken out of the hands of the elected representatives by the executive head of the Government.

A third reason for the growth of the Speaker's power is because it is a convenient means of relating Congress to the party system. The Speaker is presumably and usually one of the most vigorous members of the majority party, experienced not only in debate and in parliamentary usage, but in fighting the party's battles before the voters. He has at heart not only the doing of business, but the restraint of business, if what is proposed is harmful to his party. The Speaker, therefore, performs a function much needed in the United States, namely, the control of legislation through an official who holds a great office; and at the same time takes responsibility for party views and party votes.

The Speaker has become specially necessary because of the clumsy financial system of Congress: tax bills may be reported by several different committees; appropriation bills are invariably reported by half a dozen different committees who act without concert, and with very little regard to the probable state of the treasury. The Speaker has, therefore assumed a considerable budgetary responsibility by constituting committees with a view to their favoring or disfavoring expenditures, and by refusing to allow finance bills to come to a vote unless they are framed to suit him.

Election and Duties.—The Speaker is chosen at the beginning of each Congress by majority vote and serves for about sixteen months unless Congress is called for an extra session during the summer or fall after the expiration of its predecessor. If the party remains in power, the Speaker expects to be continued in that office for several terms. He has a salary of \$12,000 a year and some privileges such

as the enjoyment of a government automobile. He actually presides much of the time, though he may and frequently does designate a chairman of the committee of the whole (*see*). He has the affirmative privileges of other members, especially the right to introduce measures, take part in debate, and to vote. If a tie exist without his vote, he may break it. The great power of the Speaker is exercised chiefly through the following prerogatives, some of which are not expressed even in the rules, but are matters of custom:

(1) As presiding officer he enforces the rules of order, deciding not only what question is before the House (subject to reversal by a majority vote) but what person has the floor, from which there is no appeal. Hence, he may, and frequently does, refuse to recognize a member because he knows that he wishes to propose or urge something to which the Speaker is opposed, or simply because he does not like him. (2) The Speaker has had, since the revised rules of 1890 drawn up by Speaker Thomas B. Reed, the right to refuse to entertain dilatory motions, and the right to count a quorum by including persons present but not voting. This gives the Speaker power to break through filibustering tactics. (3) By his appointment of committees the Speaker conferred highly prized privileges, and at the same time kept his hand upon legislation; for practically no measure is considered by Congress unless considered by a standing committee. This gives the Speaker something like the British premier's power to construe legislation. (4) Through his power to construe and apply the rules, and to control the floor, the Speaker has practically a veto power on all measures that come before the House, and exercises it as a party potentate, presumably in conference with brother party leaders in the Senate, and with the President, if of the same party.

Effect of Insurgency.—The traditional and continued concentration of power in the hands of the Speaker tends to efficiency, but it also tends toward a rigid party discipline. Members who oppose the Speaker have felt that they were marked for poor committee places, and harsh treatment of their bills. In March 1910, about 40 Republican "insurgents" joined with most of the Democrats to reverse a formal decision made by Speaker Cannon. After a four days' contest the organization of the House was so altered that the Speaker was left off the committee on rules. Inasmuch as the Democrats had voted for this measure, when they organized the House in 1911 and Champ Clark was elected Speaker, the appointment of committees was made (as in the Senate) nominally by ballot and the Speaker was thus shorn of two of his most important powers. It remains to be seen whether or no the House will drift back to the old conditions which ensure vigor and despatch of business,

though at the cost of the initiative of the individual members.

See CLOSURE: COMMITTEE SYSTEM IN THE UNITED STATES; CONGRESS; CONGRESSIONAL GOVERNMENT; HOUSE OF REPRESENTATIVES; LEGISLATURE AND LEGISLATIVE REFORM; PREVIOUS QUESTION; RECOGNITION; REPORTS OF COMMITTEES; REPRESENTATIVES IN CONGRESS; RULES OF CONGRESS; RULES OF LEGISLATIVE BODIES; and speakers by name.

References: M. P. Follett, *Speaker of the House of Representatives* (1896); A. B. Hart, "Speaker as Premier" in *Practical Essays on Am. Government* (1894); H. B. Fuller, *Speakers of the House* (1909); J. G. Blaine, *Twenty Years of Congress* (1884-1886); S. S. Cox, *Three Decades of Federal Legislation* (1885); T. B. Reed, "How the House Does Business" in *No. Am. Rev.*, CLXIV (1897), 641, 612; lives of the Speakers, esp. Macon, Clay, Polk, Winthrop, Banks, Colfax, Blaine, Carlisle, Reed, Cannon; *Am. Year Book*, 1910, 48, 138, 165, 1911, 177, 241; J. Bryce, *Am. Commonwealth* (4th ed., 1910), I, 51, 133, 140, 402; S. W. McCall, *The Business of Congress* (1911); A. C. Hinds, *Precedents of the House of Representatives* (1907), *House Manual* (1909).

ALBERT BUSHNELL HART.

SPECIAL AGENTS, DIVISION OF. Special agents are employed by the Treasury Department (*see*) to check the work of the collectors of customs and to perform special services with respect to customs questions which may arise in their several districts. Special agents have been particularly active in the detecting of fraudulent practices in the customs houses in connection with the appraisal (*see*) of imports and assessment of duties. **Reference:** Secretary of the Treasury, *Annual Report*.

A. N. H.

SPECIAL SESSION. See EXTRA SESSION; SESSION OF LEGISLATIVE BODIES.

SPECIE PAYMENTS. During the Revolution the redemption of the federal paper money and of nearly all the state bills of credit was suspended, and never resumed. From 1791, the foundation of the First United States Bank, to 1814, the sound banks always redeemed their notes in specie; but in that year every bank in the country declined to redeem its notes and it was not until 1817 that they came back to solid ground. In 1837 there was again a general suspension of specie payments till 1838, as there was also in the panic of 1857.

During the War of 1812 and for several years afterward, the Federal Government issued treasury notes (*see*) not legal tender, which it could not immediately redeem. When the Civil War broke out the sound banks still continued to redeem their notes until December, 1861, when a general suspension gave aid

to the movement for a federal legal tender currency. Accordingly, early in 1862, United States notes were issued which were never redeemed in specie until January 1, 1879: a stock of gold having been accumulated under an act of Congress, the Government was once more in position to keep its promises.

The national bank notes from their beginning in 1862 were exactly on a par with the greenbacks, and therefore came back to a gold basis, January 1, 1879. Since that time there has been no formal suspension of specie payments; although in the panics of 1873, 1893 and 1907 the banks paid out as little specie as they could, and in some cases, declined to allow deposits to be withdrawn in specie. Actual suspension was prevented on the last two occasions by a combination of strong banks in New York, which advanced clearing house certificates (*see*) upon the securities in the vaults of some of the weaker banks. Specie payment has therefore, been substantially maintained ever since 1879.

See BANKING METHODS: COINAGE AND SPECIE CURRENCY IN THE UNITED STATES; GOLD CERTIFICATES; LEGAL TENDER CONTROVERSY; PAPER MONEY IN THE UNITED STATES.

References: D. R. Dewey, *Financial Hist. of the U. S.* (1903); J. J. Knox, *U. S. Notes* (1884); E. E. Sparks, *National Development* (1907), ch. ix. ALBERT BUSHNELL HART.

SPECIE PAYMENTS, SUSPENSION OF. This term refers to a refusal on the part of the government or banks to redeem notes in specie according to the pledge made at the time of issue. Banks have suspended specie payments at various periods, as in 1814, 1837 and 1861. The Federal Government suspended between 1862 and 1879. See LEGAL TENDER CONTROVERSY; RESUMPTION OF SPECIE PAYMENTS; SPECIE PAYMENTS. D. R. D.

SPEECH, FREEDOM OF. See FREEDOM OF SPEECH AND THE PRESS.

SPELLBINDERS. A nickname applied to campaign "stump" speakers who are said to hold their hearers spellbound. Said to have first been applied by William C. Goodloe, member of the Republican national committee from Kentucky in 1888. O. C. H.

SPENCER, HERBERT. See POLITICAL THEORIES OF ENGLISH PUBLICISTS; SOCIOLOGY.

SPHERES OF GOVERNMENT. This is a conventional expression often used to describe the fact or the idea that a government occupies a certain field or a certain portion of the total amount of political authority. The term is especially used in a system such as exists in the United States. We speak of the sphere of the United States Government and that of the states. Though there are exceptions to

the general principle, the rule is that each government has the right to exercise its authority within its own sphere undisturbed by the activities of the other. The whole field of power or authority is divided under our system as follows: (1) powers delegated to the Federal Government for exclusive exercise; (2) powers reserved exclusively to the states; (3) powers which may be exercised by the states, until the Federal Government acts; (4) powers prohibited to the Federal Government; (5) powers prohibited to the states (*see* Const. Art. I, Secs. viii, ix, x). See CONCURRENT POWERS; UNITED STATES AS A FEDERAL STATE. References: C. G. Tiedeman, *The Unwritten Constitution of the United States* (1890), 138; H. von Holst, *The Constitutional Law of the United States of America* (1887), 56-58; W. W. Willoughby, *Am. Constitutional System* (1904), ch. vii. A. C. McL.

SPHERES OF INFLUENCE. See DEPENDENT STATES; MOST FAVORED NATION CLAUSE; OPEN DOOR; PROTECTORATES, INTERNATIONAL.

SPLIT TICKET. See CUT TICKET.

SPOILS SYSTEM. Differing Views.—The name "spoils system" has been applied to the practice of filling appointive offices with party workers and favorites. This custom is based on the American theory that all government business can be done by citizens of average ability and that rotation in office is a democratic recognition of the rights of citizens. The idea was even advanced in the early days of the system that talent is called out by the prospect of employment but is "smothered by the monopoly of experience." Democratic theory implied that the party that carried the election, since it was held responsible for legislative and administrative policies, should fill all of the offices of government, those least connected with politics as well as those most important. But the opposite view, that the non-partisan functions of government should be carried on through non-partisan agents and that the use of office as a reward for party service is a vicious perversion of power, was early expressed.

Origin.—Under Washington's administration a debate in Congress arose over the power of the President to remove officers of the civil service. In the discussion the idea was expressed that a President might be elected who would use these positions to reward political and personal friends. In reply to this, Madison said that a President who would do so would himself be subject to impeachment and removal from office. But soon, as opposing parties developed, tendencies to resort to partisan methods in the distribution of office appeared. Aaron Burr compared a political party to an army. In the party as in the army the few leaders do the thinking and give

commands which the masses should be taught to obey. Burr acted on this principle in New York politics. He built up the first political "machine," using the ignorant or criminal masses in the city to organize and control the party. The professional politician developed because the spoils system gave him a living. Officers in the federal service were lined up to support the party in state and local elections. Similar tendencies appeared in other states. The Presidents usually appointed men of their own party, although at first they did not feel warranted in removing incumbents from office in order to reward party supporters. This practically gave a life tenure in the public service.

In 1820 Congress, by passing a law limiting the tenure of office to four years, took a decided step in the direction of partisan use of the public service. When Andrew Jackson became President in 1829 all restraints were set aside; political opponents were dismissed from the federal service and supporters of Jackson were appointed in their places. Jackson did the very thing which Madison, thirty-five years earlier, had said would subject a President to impeachment and removal from office.

The name "spoils system," first applied to Jackson's policy, was derived from a speech delivered in the Senate in January, 1832. Senator Marcy of New York, referring to the party conflicts of the day, declared that those who contend for the victory avow the intention of enjoying the fruits of it. "They see nothing wrong in the rule that to the victors belong the spoils of the enemy."

It is interesting to note that although the principles of the spoils system are despotic and opposed to liberty, the system came into American politics in the name of democracy and on the crest of a movement for popular control of government. The franchise was being rapidly extended; offices formerly filled by appointment were made elective; terms of office were shortened; rotation in office became the rule. Every citizen felt that he might be called to fill any position. The common people were coming to their own. The new appeal added interest and zest to party contests. It tended to build up and strengthen the convention system of party organization which was at this time just coming into existence. The patronage of the government was not yet extensive, so that, except in a few large cities, the corrupting influences of spoils of office did not come much into evidence until after the Civil War. In the rural districts and smaller towns and cities nearly all offices were filled by election. If party organs were used to fill nine-tenths of the offices, why should not the same agency be used to select the one-tenth? If the party elects the mayor, why may not the party choose the postmaster? Senator Marcy stated the exact truth when he declared that the people saw no reason

why a party victory should not be followed by partisan office-holding. The people drew no subtle distinctions between elective and appointive offices. It argues neither corruption nor a lack of intelligence that the masses of the rural population accepted the spoils system as an integral part of the new democracy. Although statesmen and reformers pointed to the evils inherent in the system and although actual abuses were already manifest in the large cities, the policy was adopted by all parties, and no organized, persistent protest against the practice arose till after the Civil War.

Effects of Civil War.—The entire party system was greatly changed as a result of those four years of conflict. In Lincoln's administration men of all parties were appointed to office. Democrats entered the Cabinet. Parties were broken up and government assumed a military form. But the spirit of party soon revived. Patronage, during and after this period, was immensely increased. Throughout the war the greater part of the voters were in either military or civil service. Union soldiers were led to the polls and voted in order to give support to the administration. The habit of identifying office with voting became fixed in the popular mind. Political patronage was not confined to persons appointed to office, it extended to multitudes of employees, to laborers and contractors, and to manufacturers and merchants furnishing supplies to the Government.

Theory.—The spoils system tends to break down all distinctions between elective and appointive office. All office-holders of every sort are made to feel dependence on the party. Most officeholders and aspirants for office are led to receive their opinions along with their party favors from the few party leaders who do the thinking. Honest citizens who could not be bribed by the offer of money are nevertheless lined up in support of a corrupt party machine by the subtle bribery of honor and place. Once established the spoils system is strengthened by the fact that some of the offices filled by appointment are political in their nature, since they have to do with the determination of policies or the fulfillment of party pledges. All agree that these should be filled by the party that carries the election. The President fills his Cabinet with party supporters. Any office that carries with it executive responsibilities with a choice of competing policies may rightly be filled by the party entrusted with the Government. It is often difficult to draw the line between political and non-political appointive offices. This is favorable to the spoilsman who would break down all distinctions in office and use them all as rewards for political service. Of course, as intimated above, the effect of the spoils system is the bestowal of office, not because of fitness for the position, but in compensa-

tion for party service. Its effect is to make every party controversy and every campaign a struggle for booty.

Besides the general military training and the great extension of patronage due in part to the war, other causes contributed to the production of radical changes in the party system. The result was a rapid extension over the entire country of the abuses which had always been associated with the spoils system in the great cities. Everywhere political power tended to pass from the people to the few political leaders who controlled the machine. This gave rise to a persistent and well-organized movement to substitute the merit system for the spoils system in the public service. The conflict between the two systems continues to the present day. The merit system (*see*) is fully presented in other articles (*see* APPOINTMENTS TO OFFICE; CIVIL SERVICE). It remains here to give brief explanation of the spoilsman's side of the case.

Defense.—The advocates of partisan appointments in the civil service derive great advantage from the fact that the system was in use for thirty years before 1860 without great public scandal. A generation of politicians and voters had grown up who knew no other system. Many of them regarded it as an integral and necessary part of the party system. To attack partisan control of appointive offices seemed to them to attack party government itself. Besides, they argue, since party men nominated and elected to party office are obliged to make the appointments, how can they do otherwise than appoint the men whom they know best, that is—their party coworkers? The reformer's substitute of a competitive examination administered by a non-partisan or a "bipartisan" commission is artificial, expensive and not adapted to secure a high degree of efficiency. Since some of the appointive offices must be filled by members of the party in order to carry out party policies and fulfill party pledges, would it not simplify the entire system to fill all offices, elective and appointive, with party supporters and thus establish complete and thoroughgoing party responsibility?

Professional politicians have likewise wholeheartedly defended the spoils system because of its intimate and helpful relation to party finance. The possession of a large number of offices to be distributed as rewards for party service secures the unpaid efforts of many aspirants for favors. The fact that an office has been given by the party makes possible a levy upon the salary received. In the palmy days of the system no recipient of party favor was exempt from an assessment upon his salary or fees. This exaction was boldly levied in the name of party loyalty and collected by party agents who called at the various department offices with lists stating the contribution expected from each appointee, or who de-

ducted the percentage of party dues from the amounts in the various pay envelopes. Refusal to contribute was promptly punished. From this source a large and regular fund for campaign purposes flowed into the treasury of the party in power. Removal of the civil service from politics and legislation against the collection of funds from office-holders struck a severe blow at machine organization in the party. Gradually more and more of the offices have been removed from party influence, although the President still has within his gift political appointments with a total annual value of more than \$12,000,000. State and city governments also continue to offer a wide field for appointive discretion.

See ASSESSMENTS FOR PARTY PURPOSES; BOSS; CIVIL SERVICE COMMISSION; CIVIL SERVICE, FEDERAL; CIVIL SERVICE, RELATION OF, TO PARTIES; CIVIL SERVICE, STATE; MERIT SYSTEM; PARTY FINANCE; PATRONAGE.

References: D. B. Eaton, *Civil Service in Great Britain* (1881); M. Ostrogorski, *Democracy and the Party System* (1910); National Civil Service Reform League, *Annual Proceedings*; U. S. Civil Service Commission, *Annual Reports*; C. R. Fish, *Civil Service and the Patronage* (1905); A. B. Hart, *Actual Government* (1903), 286-292; L. G. Tyler, *Parties and Patronage* (1891); W. G. Sumner, *Andrew Jackson* (1882), 101, 103, 145-149, 162; Goldwin Smith, *U. S. Pol. Hist.* (1893); J. A. Woodburn, *Pol. Parties and Party Problems* (1903), ch. xvii; T. Roosevelt, "Six Years of Civil Service Reform" in *Am. Ideals and Other Essays* (1897), 129-153; C. A. Beard, *Readings in Am. Government and Politics* (1911), 206.

JESSE MACY.

SQUATTER SOVEREIGNTY. A contemptuous nickname given by Calhoun to the theory of popular sovereignty championed by Cass and Douglas. **See** POPULAR SOVEREIGNTY.

O. C. H.

STAATENBUND. An international union of sovereign states, which, without giving up their independence, have united themselves for the accomplishment of certain common ends, above all for external protection, and for the obtaining of which they make common contribution. Since the several states remain sovereign, the central power is legally and actually subordinate to the members. A common congress, or assembly of delegates, occupying the position of diplomatic representatives, meets to secure the common ends, acting, however, not on their own initiative or at their own discretion, but under instruction from their home government. Staatenbund differs from a mere international alliance for the most part through the permanent character of the union. It is formed seriously for all time, and possesses usually a vital national consciousness or common historical traditions.

Moreover, in a staatenbund, the central government affects the individual only mediately, through his own state, to which his allegiance primarily attaches. In their common struggles, each feels the need of the other, and expresses that need in enduring political forms. Not only do the members of a staatenbund unite to resist a joint enemy, but they bind themselves to adjust their own differences equitably, without resort to war. A staatenbund is a league on the way to become a bundestaat (*see*). See BUNDESTAAT; CONFEDERATION; FEDERAL STATE; STATES, CLASSIFICATION OF. References: H. von Treitschke, *Politik* (1900), II, 311; J. W. Garner, *Intro. to Pol. Sci.* (1910), 142-148. B. E. H.

STAFF, CHIEF OF. The Chief of the General Staff of the United States Army is the highest trained officer in the military service, subject only to the President, who is the Commander-in-chief under the Constitution (Art. II, Sec. ii. ¶ 1), and his representative, the Secretary of War. See ARMY, STANDING; OFFICERS, MILITARY AND NAVAL. Reference: Secretary of War, *Annual Report*. A. N. H.

STALWARTS. The Stalwarts were the New York Republicans who favored the renomination of Grant in 1880, and afterwards opposed the administration of Garfield. See HALF BREEDS; REPUBLICAN PARTY. References: E. Stanwood, *Hist. of the Presidency* (1898), 419; E. E. Sparks, *National Development* (1907), 182-187. T. N. H.

STAMP ACT AGITATION. The Stamp Act was not a new device of Grenville's, but had been proposed several times before, most recently by Townshend two years earlier. Grenville proposed a much more moderate tax than Townshend's, and even asked the agents of the colonies to suggest a better form of taxation, if they disliked the one offered. When the plan became known in the colonies there were ominous protests. No heed was paid to these remonstrances except that the Lords of Trade denounced as "indecent" the resolves of the Massachusetts and New York legislatures. In Parliament there was little debate on the measures, no attention being given to the pleas of Conway and Barré in favor of the colonists. When the bill had passed the Commons and the Lords, a commission signed it in behalf of the insane king, March 22, 1765. The act provided for stamps on newspapers, bills, receipts, college diplomas and all legal documents.

The formation of parties in America now received a new impetus. Opponents of the act were called Whigs (*see*), the supporters, Tories (*see* LOYALISTS). After a short lull before the storm, the opposition burst in full force. The act antagonized the lawyers, and these natural political leaders took up the

gauntlet. Patrick Henry (*see*) began the struggle in Virginia. In a legislative committee, he offered seven resolutions, one of which declared that the colonists had the exclusive privilege of taxing themselves. Though opposed by the seaboard aristocracy, he carried most of his resolutions with the aid of the democratic western members. Copies of all these resolutions were spread abroad and aroused great excitement. Meanwhile, the Massachusetts general court issued a circular letter urging a congress of all colonies in New York in October to implore relief from the king and Parliament. Replies came slowly, but public wrath was rising, and finally, August 2, 1765, South Carolina accepted the suggestion, Rhode Island, Pennsylvania, Connecticut and Maryland following in her wake. New York sent its committee of correspondence, and Delaware and New Jersey sent informally chosen delegates. Local organizations in the meantime were agreeing to non-importation, and were refusing to use British goods. "Sons of Liberty" societies came at last openly to advocate forcible resistance. Riots began and mob violence against the Stamp agents. On the first day that the act was in force, bells tolled, flags waved at half mast, and the Stamp Act was burned or buried. Business was stopped and the courts closed. Finally, the law was simply defied.

The Stamp Act Congress met October 7, 1765. After eleven days' debate, they issued a declaration of rights and grievances, addressed the King, memorialized the Lords and petitioned the Commons. Meanwhile the Grenville ministry fell, but not because of the Stamp Act. The matter came up in Parliament, however, and after a memorable debate with Conway, Camden and Pitt, for the colonists, against Mansfield, Bedford and Grenville in opposition, the act was repealed.

See REVOLUTION, AMERICAN, CAUSES OF.

References: R. Frothingham, *Rise of the Republic* (6th ed., 1895), 158-200; W. H. Lecky, *American Revolution* (J. A. Woodburn, Ed., 1898); G. E. Howard, *Preliminaries of the Revolution* (1905), 121-173; text of act in W. MacDonald, *Select Charters* (1899), 281-305; Resolutions of Stamp Act Congress in *ibid*, 313-315. C. H. VAN TYNE.

XSTAMP TAX. This term refers rather to the method of collecting a tax than to a special kind of tax. It was introduced in Holland in 1624, borrowed by England, and introduced into America in the colonial period. By requiring certain stamps, sold by the Government, to be affixed to certain documents in order to make them valid, it is possible to secure revenue from a large number of transactions, many of them petty, which otherwise would not be reached. Bastable makes the following classification of the system: (1) on law proceedings and judicial acts; (2) on

commercial instruments, stocks and shares; (3) on the sale of property, especially immoveables; (4) on gratuitous transfers, such as duties on succession after death.

In 1763 the English Government imposed a tax upon the colonies through stamp duties levied upon certain legal and commercial papers; owing to its unpopularity it was soon abandoned (*see* STAMP ACT). The stamp tax was tried for brief periods in 1797 and 1814, but it was during the Civil War that it obtained its widest application. The term included not only commercial processes, and bank checks but taxes on commodities, such as perfumery, playing cards, and patent medicines. Such taxes were among the first to go in the revision of the internal revenue system after the war. Stamp taxes were introduced in 1898 to provide revenue for the Spanish War. Stamp taxes on legal and commercial transactions while not burdensome and willingly accepted if there be financial necessity, are regarded with disfavor, because of the annoyance occasioned and the possibility of committing unintentional error. *See* REVENUE, INTERNAL. *References:* F. C. Howe, *Taxation in the U. S. under the Internal Revenue System* (1896), 28-31, 119-124, 275; J. N. Pomeroy, *Introd. to Const. Law of the U. S.* (3d ed., 1888), 239-242; U. S. Commissioner of Internal Revenue, *Annual Reports* (1898-1902).

DAVIS R. DEWEY.

STAMPEDE. A term used to denote the wild scene in a nominating convention when after a long contest delegates break away from their candidate and hasten to join the ranks of the apparent winner. The first stampede resulted in the nomination of James K. Polk, 1844. *See* CONVENTION, POLITICAL; NOMINATION OF THE PRESIDENT. O. C. H.

STAND PAT. A term probably first used in its political sense by Mark Hanna in 1900 in advising the Republican leaders to stand firmly by the high protective tariff policy. It soon gained general currency as characterizing the high protectionist principles, and recently signifies particularly the policy of the ultra-conservative wing of the Republican party in contra-distinction to that of the Insurgent or Progressive (*see*) wing. *See* PROGRESSIVE PARTY; REPUBLICAN PARTY. O. C. H.

STANDARD MONEY. The principal or standard money in any system of moneys is the money to which all others are subordinate; its value is independent of its relation to any other money. "The standard money," says Professor Taylor, "must be that one among the moneys, which are constantly at par, which alone has its value fixed independently of its relations to any other money forming a part of the circulation." The ultimate standard is the substance or substances to which the stan-

dard money is required to bear a certain relation. Thus with the free coinage of gold, where gold coin is fixed as the standard money, gold bullion is the ultimate standard. In the United States the standard unit is a gold dollar composed of 25-8/10 grains of gold, nine-tenths fine: the amount of fine gold is 23-22/100 grains. *See* BIMETALLISM; COINAGE, FREE; MONEY; MONOMETALLISM. *References:* F. M. Taylor, *Chapters on Money* (1906); F. A. Fetter, *Principles of Economics* (1911), 432-4. A. C. McL.

STANDARD OIL CASES. *See* REASONABLENESS IN RESTRAINT OF TRADE; SHERMAN ANTI-TRUST ACT.

STANDARD TIME. The common unit of time is the mean solar day—the average interval from noon to noon. The day begins 180 degrees east of Greenwich, and at midnight at Greenwich it is midday on the date line. Standard time is an arbitrary convenience adopted in 1883 to simplify corrections for sun time for small changes in longitude. The railroads divided the United States into four standard time belts each 15 degrees wide. Throughout each belt the mean sun-time of its central meridian prevails—adjacent belts differ by exactly one hour. The belts are called "Eastern," "Central," "Mountain," and "Pacific" and are bisected approximately by the 75th, 90th, 105th, and 120th meridians. H. D. H.

STANDARDS, BUREAU OF. The Bureau of Standards was one of the bureaus of the Department of Commerce and Labor until the division of that department, March 4, 1913, when it became part of the Department of Commerce. It is charged with testing measuring instruments of all kinds, in order that they may conform to the public standards as defined by law and preserved at Washington. This work is distributed among the following divisions: (1) electricity, which tests electrical, magnetic, and photometric measuring instruments; (2) weights and measures, which tests instruments for measuring length, mass, volume, and time; (3) thermometry, pyrometry, and heat measurements, which tests thermometers, calorimeters, etc; (4) optics (including radiometry, spectrometry, polarimetry, and interferometry), which tests lenses and other optical instruments; (5) chemistry, which tests government supplies chiefly. All the divisions also undertake researches for the determination of physical constants and the properties of materials. During the year 1909 the Bureau made 25,629 tests for the Government, and 12,460 for the public. The total expenditure of the Bureau during the fiscal year 1909, amounted to \$196,527.92. *See* COMMERCE, DEPARTMENT OF; WEIGHTS AND MEASURES. *Reference:* Dept. of Commerce, *Annual Reports*. A. N. H.

STANTON, EDWIN McMASTERS. Edwin M. Stanton (1814–1869) was born at Steubenville, Ohio, December 19, 1814. He was admitted to the bar in 1836, and from 1837 to 1839 was prosecuting attorney for Harrison county. From 1842 to 1845 he was reporter of the Ohio supreme court. In 1847 he removed to Pittsburgh, Pa., and in 1856 to Washington, where he had an important practice, including notable cases before the Supreme Court. In 1857–58 he was in California as special counsel for the United States in Mexican land grant cases. December 20, 1860, he became Attorney General in Buchanan's Cabinet. January 15, 1862, he entered Lincoln's Cabinet as Secretary of War, succeeding Simon Cameron, and devoted himself with extraordinary energy to the reorganization and management of the department. He was entirely opposed to Johnson's views on reconstruction (*see*), and allowed himself to be used by Republican leaders to thwart the President. August 5, 1867, Johnson demanded his resignation, which was refused; he was then removed from office and Grant appointed Secretary *ad interim*. January 14, 1868, the Senate declined to approve the removal; Grant at once withdrew, and Stanton was reinstated. On February 21 he was again removed by Johnson, but did not relinquish the office until May 28, when the impeachment of Johnson having intervened, he retired after the trial. In 1869 he was appointed associate justice of the Supreme Court, but died December 24, at Washington, before qualifying. **See** WAR, DEPARTMENT OF; WARS OF THE UNITED STATES. **References:** G. C. Gorham, *Life and Public Services of Edwin M. Stanton* (1899); J. F. Rhodes, *Hist. of the U. S.* (1893–1905), III–VII; J. W. Burgess, *Reconstruction and the Constitution* (1903); G. Welles, *Diary* (J. T. Morse, Jr., Ed., 1911). W. MacD.

STARE DECISIS. To abide by or adhere to decided cases. The "doctrine of *stare decisis*" is that when a point of law has been decided by a court of competent jurisdiction, the decision becomes a precedent which should be followed in future cases before the same court, and those inferior to it. This is, however, but a rule of policy, which may be and often is departed from. **Reference:** J. Kent, *Commentaries* (14th ed., 1896), I. H. M. B.

STAR ROUTE TRIALS. The trials during the Garfield-Arthur administration of Thomas W. Brady, second assistant Postmaster General, Senator Dorsey of Arkansas and others on the charge of defrauding the government out of large sums of money by increasing the compensation on a large number of the "star" routes—the non-remunerative postal routes—on which the mail was carried by private contract. Those charged with conspiracy were not convicted. O. C. H.

STATE ADJUTANT GENERAL. **See** ADJUTANT GENERAL, STATE.

STATE ASSEMBLY. The assembly, house of representatives, and house of delegates are varying names applied to the more numerous branch of the state legislature. The membership varies from 35 in Delaware to nearly 400 in New Hampshire. In the newer states, usually after the decennial census, the state is redistricted for the election of the fixed number of representatives. The majority party in the legislature often improves the opportunity to gerrymander the state. In some of the older states, particularly in New England, the town is the unit of representation. Thus, in Vermont each town elects one and only one, representative; in Connecticut no town or city sends more than two, and no town which in 1818 had two, has had its representation reduced. The result is that in the house of representatives New Haven's population of nearly 150,000 is balanced by Union's of 400. Such "rotten-borough" representation puts the control of the political and industrial interests of a state of rapidly growing cities in the control of decadent country towns. In Illinois from each senatorial district are chosen three representatives, by a system of cumulative voting.

Aside from brief preliminary residence in the state, no different qualifications are usually required for a representative than for an elector. Half a dozen states stipulate that the representative must be twenty-four or more years of age. In 39 states the term of the representative is two years; in Alabama, Louisiana and Mississippi it is four years; Massachusetts, New York, and New Jersey still eling to their annual elections in the belief that thereby legislative responsibility is better secured. But an inevitable consequence is the utter lack of legislative experience on the part of most of the members of the assemblies.

The average age of representatives is well over 40. The personnel is affected greatly by the system of representation. In the states where the town is the unit, farmers often constitute the largest element. In the Vermont house (1899) 57 per cent were farmers and three per cent lawyers; in New York, the same year, eight per cent were farmers and 30 per cent lawyers. Members are elected as Republicans and Democrats, although most of the problems of state government are outside the field of national politics. Several of the states still require that bills for the raising of revenue shall originate in the lower house, to which is also assigned the power to impeach state officers.

See DEBATES IN LEGISLATURES; LEGISLATURE AND LEGISLATIVE REFORM; RULES OF LEGISLATIVE BODIES; SENATE, STATE; STATE LEGISLATURE.

References: P. S. Reinsch, *Am. Legislatures* (1907); James Bryce, *Am. Commonwealth* (4th ed., 1910), I, 481-497; A. Shaw, "The American State Legislatures" in *Contemporary Review*, LV1, Dec., 1889, 555; I. P. Orth, "Our State Legislatures" in *Atlantic Monthly*, XCIV (1904), 728-739; G. H. Haynes, *Representation in State Legislatures* (1900); T. Roosevelt, *Am. Ideals* (1897), 63-101; *Am. Year Book*, 1910, and from year to year.

G. H. HAYNES.

STATE ATTORNEY GENERAL. See ATTORNEY GENERAL, STATE.

STATE AUDITOR. See AUDITOR, STATE.

STATE COMPTROLLER. See COMPTROLLER, STATE.

STATE CONSTITUTIONS, CHARACTERISTICS OF. See CONSTITUTIONS, STATE, CHARACTERISTICS OF.

STATE, DEPARTMENT OF

Origin.—The Department of State combines two great functions of executive government—the conduct of the country's international relations and the performance of those duties of state which fall to the custodian of the supreme mark of executive authority, the seal of the United States. In the Continental Congress a committee of secret correspondence was formed November 29, 1775, to correspond with friends of the American cause in "Great Britain, Ireland and other parts of the world." This gave way, on April 17, 1777, to a Committee of Foreign Affairs, which in turn was superseded on January 10, 1781, by the Department of Foreign Affairs, whose head was denominated the "Secretary of Foreign Affairs." In the new Congress the act of April 27, 1789, created a Department of Foreign Affairs to have supervision under the President's direction of our diplomatic and consular agents abroad and to conduct correspondence with representatives of foreign governments in the United States.

The Continental Congress had promulgated its own acts through the Secretary and he had been the custodian of the seal of the United States. The debate in the new Congress on establishing executive departments indicated that the prevailing opinion at first was that the Secretary of Foreign Affairs should keep the seal and that Congress itself should promulgate the laws. On July 27, 1789, joint rules of the House and Senate "for enrollment, attestation, publication and presentation of the acts of Congress, and to regulate the mode of presenting addresses and other acts to the President of the United States" were considered in the House and rules for enrolling, comparing and presenting bills were agreed to. The remainder of the question was referred to a committee to bring in a bill, and it reported the bill, "to provide for the safe keeping of the acts, records and seal of the United States, and for other purposes," which became a law September 15, 1789, and enlarged the Department of Foreign Affairs into the Department of State, and put it under the Secretary of State. He was to receive and

publish the laws of the United States, to keep the seal and to affix it to presidential commissions and other executive instruments, and to have custody of all records that had been in the office of the secretary of Congress, these being duties additional to those pertaining to foreign affairs provided for by the act of July 27. Thomas Jefferson, the first Secretary, described the department as embracing "the whole domestic administration (war and finance excepted)."

The Secretary of State was recognized as the ranking executive officer, next to the President, and Washington inaugurated the custom which has since maintained of making him the organ or mouthpiece of the President in state affairs of general concern. The organic act made him, under the President, the Government's representative in all dealings with foreign governments and in communicating with them he speaks for the head of the state. They can reach this Government through no other channel; but foreign envoys of ambassadorial rank, being in a peculiar sense the embodiment of the supreme sovereignty of their countries, may and sometimes do have personal interviews with the President, always, however, after requesting an audience through the Secretary of State. The great dignity and prestige of the office have attracted to it the foremost political characters. Thomas Jefferson, James Madison, James Monroe, John Quincy Adams, Martin Van Buren and James Buchanan served in it before being elected to the presidency. Henry Clay, Edward Everett, Lewis Cass and James G. Blaine, Secretaries of State, were nominated for the presidency. Daniel Webster, who twice served, 1841-1843, and 1850-1852, negotiated the Webster-Ashburton treaty, fixing the northeastern boundary of the United States in 1842; Abel P. Upshur, 1843-1844, and John C. Calhoun, 1844-1845, negotiated the treaty annexing Texas which failed of ratification by the Senate, but was the immediate precursor of annexation by joint resolution of Congress; William H. Seward, 1861-1869, conducted our foreign affairs successfully through the Civil War, and pre-

vented foreign recognition of the Confederacy; Hamilton Fish, 1869-1877, negotiated the treaty of Washington with Great Britain in 1871, under which claims against that country for depredations upon American commerce (see ALABAMA CONTROVERSY) were arbitrated; John Hay, 1898-1905, formulated the policy of the United States with reference to the far East which checked European advance in China and kept an open door for American trade.

Duties.—As the magnitude of the functions of the national government has increased, the domestic functions of the department have become fewer by distribution among other departments—the most important thus transferred being patents, copyrights, the census, territorial affairs and correspondence with federal officers of justice. The department has certain contingent duties which it has never, or rarely, been called upon to perform. The act of March 1, 1792, provided that in case the offices of President and Vice-President should both become vacant the Secretary of State should notify the governors of the states and publish the fact in the newspapers, stating that there would be a new election within a certain time; but there has never been a vacancy in the offices of President and Vice-President (see PRESIDENTIAL SUCCESSION). The same act provided that one elected to the presidency or the vice-presidency might decline to serve or resign by a written instrument “delivered into the office of the Secretary of State.” No one has ever declined an election to these offices, and only once has there been a resignation—that of John C. Calhoun as Vice-President dated December 28, 1832, and sent to the Secretary of State, as the law required. The same act required that whenever the vote of any state for President or Vice-President has not been received at Washington by the first Wednesday in January after the election, the Secretary of State shall send a special messenger to receive the vote, and messengers have been dispatched for the vote, in accordance with this act, on several occasions (see ELECTORAL COLLEGE; PRESIDENTIAL ELECTIONS).

Hardly second in importance to the duties in connection with the election of the President are the duties of the department with reference to amendments to the Constitution. The ratifications of the first ten amendments, proposed in the House of Representatives June 8, 1789, were sent to the department by the President, who communicated the fact of ratification by each state as it was received with a separate message to Congress in each case; but the amendments proposed in 1793 and 1804 were communicated to the states by the Secretary of State who also informed Congress of the ratification. The act of April 20, 1818, confirmed this practice, and required also that, when he should be apprised of the adoption

of a proposed amendment to the Constitution by three-fourths of the states, he should publish the amendment in the newspapers authorized to publish the laws and it should then become effective. This is now the law, and since its passage it has been customary for the Secretary of State to announce the ratification of an amendment by proclamation over his name and the seal of his department, newspaper publication of the laws having ceased.

Subdivisions.—The subdivisions or bureaus of the department have grown naturally from the division of labor. The second officer was the chief clerk who acted as head of the department when the Secretary was absent, until the act of March 3, 1853, provided for an assistant secretary. The act of July 25, 1866, created the office of second assistant secretary, and that of June 30, 1875, of third assistant secretary. Ordinarily the assistant secretary has general supervision of the department, the second assistant secretary of diplomatic affairs, the third assistant secretary of consular affairs and the chief clerk of departmental administration; but this arrangement is not fixed. The act of 1866 provided for an Examiner of Claims, whose title became, by act of 1891, Solicitor of the Department of State. He is under the nominal jurisdiction of the Department of Justice, as his duties are those of an assistant attorney general. The first systematic division of the department into bureaus was made in a memorandum made by Secretary Louis McLane to President Andrew Jackson August 29, 1833, who approved it. It divided the department into eight bureaus, an arrangement which has continued with modifications and expansions to the present day: but the bureaus did not receive legal recognition until the act of March 3, 1873, provided a salary for each chief. January 1, 1911, the organization of the department was: the Secretary of State, the Assistant Secretaries, the Solicitor, two Assistant Solicitors, the Chief Clerk, the Diplomatic Bureau, Consular Bureau, Bureau of Indexes and Archives, Bureau of Accounts, Bureau of Rolls and Library, Bureau of Appointments, Bureau of Trade Relations, Bureau of Citizenship, and Translators. By the act of August 15, 1909, the Secretary of State was given authority to select employees and fix their compensation “in connection with foreign trade relations which come within the jurisdiction of the Department of State, under tariff legislation and otherwise, and in negotiation and preparation of treaties, arrangements and agreements for the advancement of commercial and other interests of the United States.” The arrangement made under this act was given congressional sanction by the appropriation act of June 17, 1910. There are now, therefore, in addition to the regular force of the Department the following special officers: the Counselor, the Resident Diplo-

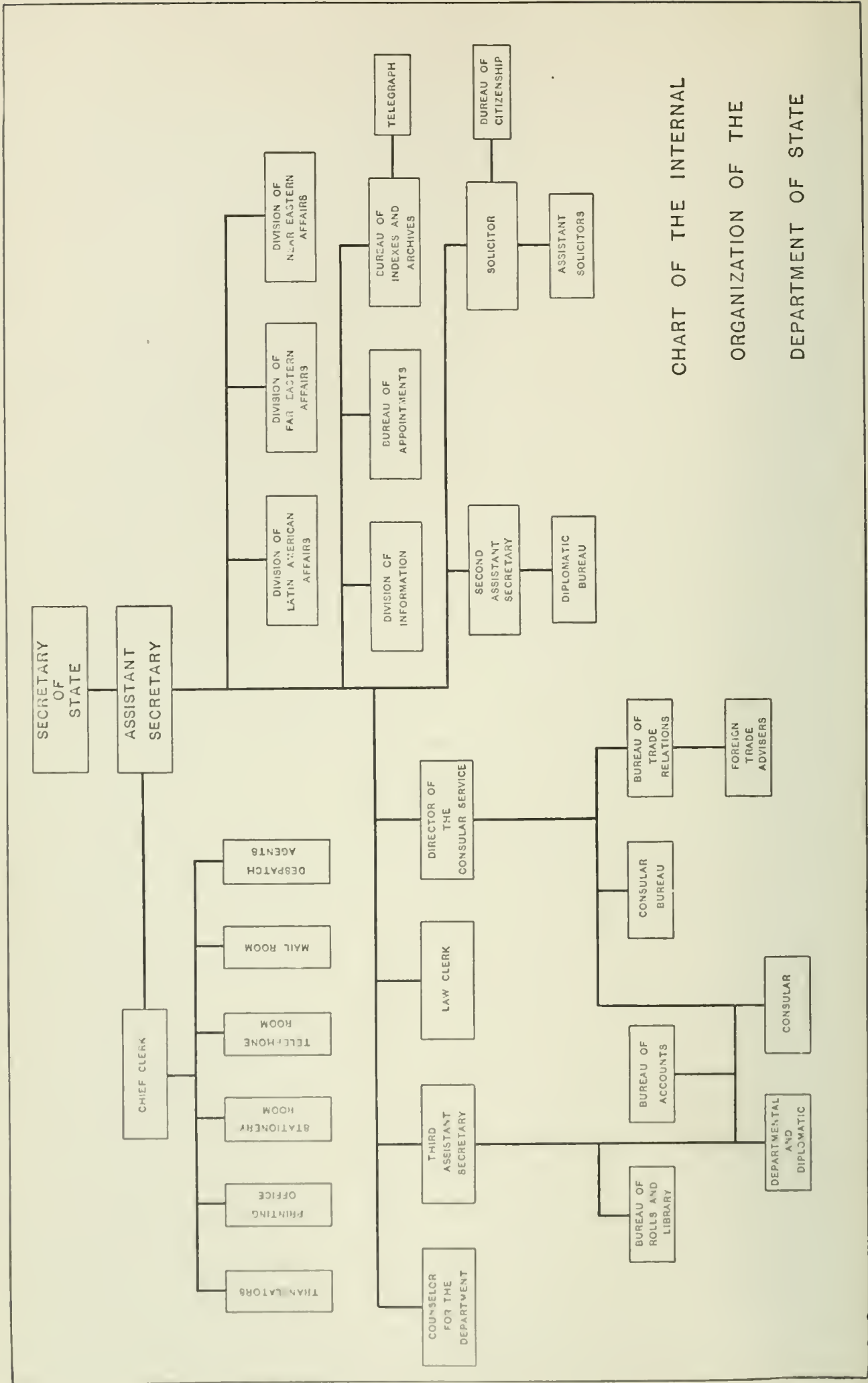


CHART OF THE INTERNAL
ORGANIZATION OF THE
DEPARTMENT OF STATE

STATE DEPARTMENTS, HEADS OF

matic Officer, the Director of the Consular Service, chiefs of the division of Far Eastern Affairs, of Latin-American Affairs, of Near Eastern Affairs, of Western European Affairs and of Information.

See CABINET OF THE PRESIDENT; EXECUTIVE DEPARTMENTS; FOREIGN POLICY OF THE UNITED STATES; TREATIES OF THE UNITED STATES.

References: G. Hunt, *The Department of State, Hist. and Functions* (1893), *Outline of Organization and Work of Department of State* (1911), *The Hist. of the Department of State in Am. Journal of International Law*, as follows: "The Department of Foreign Affairs," I, 868, "Creation of the Department of State," II, 591; "The New Department," III, 137; "Sometime and Occasional Duties of the Department," III, 909; "Occasional Duties of the Department," IV, 384; "Subdivisions of the Department," IV, 597, V, 118; "Duties of the Department of State," V, 414, V, 987, VI, 119; VI, 679; VI, 910; "Department Buildings," VI, 924; M. L. Hinsdale, *Hist. of the Presidents' Cabinet* (1911); H. B. Learned, *The President's Cabinet* (1911).

GAILLARD HUNT.

STATE DEPARTMENTS, HEADS OF. Selection.—Heads of departments under the executive differ in number there being usually fewer than in the President's Cabinet. In many ways the states have used the Federal Constitution as a model, but in this case, not one state has accepted the Cabinet system. In a very few states a few heads of departments are appointed by the governor. The usual method of selection is by election. An effort to secure the appointment of a few such officers failed in the Ohio constitutional convention of 1912. In Maine, some of the members are appointed by the legislature. In Delaware, the governor appoints the secretary of state. In Maryland, the secretary of state, state librarian, and commission of law office are appointed by the governor, with the advice and consent of the senate. In New Hampshire, a few are elected on joint ballot of the general court. In New Jersey the treasurer is selected by the general assembly, the attorney general and secretary of state are nominated by the governor, with the consent of the senate. In Pennsylvania, the governor appoints, with the advice and consent of two-thirds of all the senate, the secretary of state, attorney general, and superintendent of public instruction. The other members are elected.

In Tennessee, the secretary of state is appointed by the general assembly, and the attorney general by the judges, and in Texas the secretary of state is appointed by the governor. There is an element of weakness in the selection of the heads of departments. They are often selected at different times and for different terms. It is not uncommon to have a chief executive of one party, and his subordinates or

part of them, of another. This makes coöperation among the departments very difficult. It is also difficult to get rid of an officer who is incompetent or inefficient.

Secretary of State.—First on the list is the secretary of state, whose duties are usually prescribed by law. This official is the keeper of the archives. He may be called upon to give opinion in writing to the governor, on matters pertinent to his office. In many states he sits on boards of different kinds. This position is often looked upon as a stepping stone to the governorship or a senatorship, or to a position in the federal service. He has important functions in connection with elections, and certification of the result of elections, both for state and national officials.

Attorney General.—The attorney general is the legal adviser of the state. He represents the state in many cases, and on many more questions he gives opinions, which may be reversed by the courts, but are usually sustained. The opinions are usually published by the state.

Superintendent of Education.—The state school commissioner or superintendent is commonly a member of the state executive. In some states, he is at the head of a board, having control of the entire educational affairs of the state. He usually prepares the questions for state examinations for teachers, but does not correct the papers. This is done by the state examiners. In some states, the work of the state commissioner is almost limited to collecting a few statistics, and thus making the school report for the year.

Treasurer.—The treasurer of a state has the responsible position of handling the public funds. The system is very cumbersome in some states. The greatest difficulty, perhaps, is in keeping the different funds for the different institutions in proper condition. The keeping of the funds in banks is also important; and has often given room for suspicion of graft in the payment of interest to the treasurer. The state treasurer is dependent very largely upon the county treasurers. Often a state treasurer has been unable to meet the demands upon the treasury because of the lack of promptness on the part of the county treasurers.

Other Heads.—There is frequently an auditor whose duties are those of bookkeeper, but he usually performs other duties by law, and some constitutions provide that he shall be a member of certain executive boards. One of his most important functions is in relation to fixing the valuation of property for taxation. The adjutant general (*see*) is a member of the executive department in but a few states. His duties are military. A board of public works composed of elective members, sometimes only a single commissioner, has been a part of the executive department in some states. It has not been a complete success, because of the

mismanagement of public business by a few men, elected for short terms, often because of their political activity rather than their business administrative capability.

Responsibility.—Mostly elected by popular vote and in very few cases placed under the direction of the governor, the heads of state departments are difficult to control except by declining to reelect them. They are almost invariably subject to impeachment or to removal by joint vote of the two houses of legislature but impeachment is a long and difficult process and removal on address of the houses is extremely rare. They are sometimes compelled to resign by a storm of adverse public opinion. New York has given to the governor the important power of investigating the workings of any state department, including the appointment of special counsel for that purpose. In New York also, the governor has the power of removal of certain heads of departments, for instance, the insurance commissioner, with the consent of two-thirds of the state senate, but in practice this has been found almost an unworkable method. The recall, in the few states which adopted it up to 1912, can be applied to the heads of the state departments. As yet there has been no example.

Defects.—Some state officials, particularly the secretary of state and occasionally the financial officers, are reelected or reappointed for a long period; but the average term of service is certainly not above four years. This means that there is a constant stream of men unacquainted with the duties of their offices coming in, and, since the public business must be performed somehow, they are obliged to take the advice of clerks and subordinates. Many such officials are put in by and follow the directions of an occult outside influence—"the organization" or "the boss." Inasmuch as the heads of departments are responsible in many cases for public property, for the direction of public interests, and for the execution of important statutes, this irregularity and uncertainty of service reduces the state service below similar service either federal or municipal. Moreover, the lack of coordination between executive officers is even more

serious and has given rise to the astonishing growth of executive boards (*see*).

See ADJUTANT GENERAL, STATE; ATTORNEY GENERAL, STATE; AUDITOR, STATE; COMPTROLLER, STATE; SECRETARY OF STATE IN STATES; TREASURER, STATE.

References: A. B. Hart, *Actual Government* (1908), ch. viii; C. H. Beard, *Am. Government and Politics* (1910), ch. xxiv; F. N. Thorpe, *Federal and State Constitutions* (1909); J. H. Finley and J. F. Sanderson, *Am. Executive* (1908), ch. viii.

THOMAS N. HOOVER.

STATE EXAMINERS. A state board of examiners exists in some 17 states. Created as an aid to the state superintendent of public instruction or to the state board of education, its chief functions are to prepare the papers for examination of persons seeking teachers' certificates through examination, to rate the answers, and, in some states, to issue certificates of various grades. This board is usually composed of from 3 to 10 members appointed by the state superintendent or the state board of education for terms reaching as high as 5 years. The payment for services is usually on a *per diem* basis. The New York State Examinations Board has the planning and supervision of the examinations for the thousands of pupils in the graded and high schools of the state, in cooperation with the state education department (*see* REGENTS' EXAMINATION). It is a body of members appointed by the Regents of the University of the State of New York for a term of 5 years. In many states there are boards created by law for examining persons desiring license to practice professions like law, medicine, and pharmacy, *e. g.*, the New York State Board of Law Examiners, appointed by the Court of Appeals. See EXAMINATIONS FOR EMPLOYMENT AND PROFESSIONS; PROFESSIONS AND CALLINGS, PUBLIC REGULATION OF; REGENTS' EXAMINATION; SCHOOLS, PUBLIC, LEGAL RIGHTS OF TEACHERS IN; TEACHERS, LEGAL QUALIFICATIONS OF. **References:** H. Updegraff, "Teacher's Certificates" in U. S. Bureau of Education, *Bulletins*, No. 18 (1911); N. Y. Education Dept., *7th Annual Report*, 1910, 89-108.

K. C. B.

STATE EXECUTIVE

Genesis of Power.—The principles of American executive power and particularly of the state executive, are derived from the practice of Great Britain and of the English colonies in North America. The long struggle between the Tudor and Stuart sovereigns and Parliament developed a theory that the interests of the executive and legislative parts of the government were antagonistic (*see* SEPARATION OF

POWERS). In the colonies this idea was strengthened by the practice (except in two colonies) of appointing the governor from England, and binding him by royal instructions to stand out against many things which the colonists desired, as for instance against taxes on the slave trade. In the disturbances preceding the Revolution, the governors were the agents of the British authorities.

In the formation of the new state governments, therefore, the legislative power was emphasized, and the executive was correspondingly weakened: some of the governors were appointed by the legislatures, all were limited in powers of appointment and administration; only one of the first set of constitutions, that of Massachusetts, had even a suspensory veto power.

The colonists had also been accustomed to appoint some colonial executive officer, such as the treasurer, without the action of the governor; and in working out their state governments, they followed this practice of subdividing the executive power. The Federal Government during the Revolution consisted of a Congress, representing states, which were very jealous of the authority of individuals and of any special power given to the delegate of a particular state; hence the president of Congress was simply a chairman, and under the Confederation, the only constitutional executive was a board of nine members which never worked at all. The only executive power consisted of committees and heads of departments and commissions appointed by Congress, and entirely responsible to Congress. The states, therefore, had no model of a vigorous and well organized executive, till the Federal Constitution of 1787; and by that time every state had, or was about to adopt, a single governor, and had worked out a system of balanced government.

Executive Head of the State.—The early revolutionary governments had temporary committees at their head. In Pennsylvania until 1790, the executive, which was a weak one, was made up of a council, the chairman of which was called the president of Pennsylvania. In every other state constitution, provision was made for a single governor. Gradually choice by the legislature fell away, till in 1865 all the governors became elected by popular vote. Some states, from the first, accepted a plurality vote; others required a majority vote and, if none appeared on the election, the legislature, on joint ballot, was authorized to elect—a system which still prevails in New Hampshire, Vermont, Connecticut, Rhode Island and Georgia.

The governor (*see*) is the official head of the state, sends and receives communications in the name of the state; issues proclamations to the people of the state, either giving public notice of a legal measure or expressing his opinion (*see* MESSAGES, EXECUTIVE). The governor is the official representative of the state in its relations to the Federal Government: hence he issues writs for elections to fill vacancies (*see*) in the House of Representatives; appoints to vacancies in the federal senatorships from his state; transmits ratification of constitutional amendments, and other acts of the state legislature which concern federal matters.

The governor possesses a body of powers, varying much from state to state: he is the head of the military system of his state; appoints military officers and calls out and gives orders to the militia when needed; he has a considerable patronage, chiefly of the members of boards (*see*) and commissions (*see*), and some of the less important officials; he has a removal power, in most cases smaller than his appointing power; and by the veto which is now employed in all the states but North Carolina he has a share in the legislation of his state. About three-fourths of the states have also a lieutenant governor (*see*), who succeeds the governor in case of a vacancy; and, in some states, in case of the absence of the governor from his commonwealth.

Subdivision of Executive Power.—In every state of the Union, there are state executive officials, not appointed by or responsible to the governor: such are—the secretary of state of the state (*see*); the adjutant general of the state (*see*); the state treasurer (*see*); the attorney general (*see*); the superintendent of public instruction (*see*); the state comptroller or auditor (*see*). In Pennsylvania, several of these officials are appointed by the governor; but the general rule is that they are elected by popular vote, their terms and the time of their election often differing from those of the governor; so that they often belong to another political party than the governor, and in any case are not responsible to him.

Large areas of executive power are given to state boards and commissions (*see*); in Massachusetts there are about 300 members of such commissions. The majority of the states have boards of railroad commissioners, boards of health, and bureaus of labor. Some have public utilities commissions (*see*), prison commissioners, state boards of education. In most states, there are separate boards of trustees for each public insane hospital, normal school, state jail, reformatory and institution for the defective. A movement is going forward for the consolidation of most of these local boards into one board of control (*see*) or board of affairs. Every variety can be found in the organization of these boards—some elected by popular vote; some chosen by the legislature; most of them appointed by the governor, sometimes with and sometimes without the power of removal; some paid and some unpaid.

The one characteristic common to the executive system of all the states is that the executive power is diffused among many individuals and boards, not selected on any uniform system, not responsible to any central authority, not regulated by one statute, nor one system of statutes, acting in disharmony and frequently at cross purposes. The whole system is inspired by two principles: that the executive is something to be feared; and that as

many people as possible ought to have the joys of office.

There is a marked tendency to enlarge the powers of the governor by giving him the appointment of a larger number of these officials, by conferring upon him a removal power, and by giving him powers of inquiry and supervision over some of the state officers. On the other hand, in several states, notably Massachusetts, the governor is surrounded by an executive council, which shares in his appointments, removals, pardons and other functions.

Minor Executive Service.—From the colonial period on, there has been a small force of bureaus and clerks connected with the legislatures and the executive officers. As the functions of the states have grown, these minor officials have multiplied. Every state institution has its clerical force, besides the necessary wardens, keepers, nurses, attendants and other employees. The modern development of state activity and state regulation has enlarged this body of persons by a great number of inspectors, accounting officers and clerks, district nurses, health officials and the like. The growth of the public schools has made necessary an army of teachers, employees of the state, or of the cities, and subject to supervision of the state. Probably the number of state employees throughout the Union is not less than 400,000.

Outside of New York, Massachusetts, and a few other states, these employees are chosen by favor in most cases, because of political service to the party in power, and are subject to removal for trivial reasons, or when a new party gets possession of the appointing power. Many such officials serve for years because they occupy confidential or expert positions in which there has to be some regularity. Many cities have been brought under civil service rules, so that their clerical force is reasonably constant; even there the heads of offices and of minor departments are subject to frequent change.

The one great exception to this fluid condition of state service is the schools. Though the state superintendents are in most states still political officers with short service, the city superintendents serve for long periods and are likely to be transferred on their merits. In most of the city schools throughout the Union, the teachers have a steady tenure; in many places a life tenure; in some places, a legal right to a retiring allowance after a stated number of years' service (*see* TEACHERS, LEGAL RIGHTS OF). The rural teachers are much more subject to change and disturbance; but in many states, a system of county superintendents is growing up in which the superintendents are out of politics and protect the teachers from arbitrary removal. The system of state examinations and certificates (*see* TEACHERS, LEGAL QUALIFICATIONS FOR) is a

precaution against unfit persons being appointed, and establishes a standard, however low, of capacity and character.

Administrative Power.—The theory of American governments, both national and state, is based on the separation of powers (*see*); and all the state constitutions attempt to set legislatures and all executive authorities in two separate compartments of authority. In practice, the principle is defective on both sides. The legislatures do a large amount of executive business through committees which make decisions as to executive matters, and through their control of appropriations which is used to undercut executive responsibility by prescribing the numbers, salaries and duties of subordinate officials.

The executive trenches on legislative power by such constitutional devices as the veto; by the influence of governors and other executive officers over the drafting and enactment of legislation; and by the power of executive officers to pass votes and make rules which have the force of law. American constitution makers and jurists have a theory that legislative power cannot be delegated, which is not borne out by the practice of the governments. Legislative power is constantly delegated by the people of the legislature of the state to city and other local governments; and legislatures constantly give to executive bodies the power to make rules which have the force of law, in the relations between executive officials and their subordinates; as, for example, to draw up rules for the competitive examinations for candidates of minor office. In a great number of cases, also, legislatures empower governors, and particularly boards, to make rules which are law for the citizen not employed by the state: as for instance, rules for the use of public grounds and the forms of declaration for taxes. Even so serious a matter as the making of rates for transportation has been delegated by many legislatures to railroad commissions (*see*); and health regulations, which seriously affect the public, are frequently drawn by state boards of health.

No other way is adequate to secure legislation in detail for the advancing economic and social functions of the state. The practice of issuing executive ordinances (*see*), and of executive regulations, exists in every government and is a substantial function of the state executives of the United States.

Remedies and Probable Development.—The evils of the subdivision of executive power are recognized in many states; and the attempt is being made to give the governor a wider appointing power; to relieve him from the confirmation of his appointments by the state senate; to recognize his unrestricted removal power; and to reduce the number of coördinate elected officials (*see* BALLOR, SHORT). No state in the Union has ever had a cabinet system in which all the heads of departments are

appointed by the governor, except, for a short time, Florida; though the example of the United States Government proves its efficiency and the public interest which it arouses.

The suggestion has been made by some state officials that the single board government which has been successful in many cities (*see* COMMISSION SYSTEM OF CITY GOVERNMENT) would be fully as advantageous in states; that the whole executive might be put into the hands of a board, one of whom with a little greater authority, might be called governor; and that that board might appoint all state subordinate officials, or provide for their appointment.

Before either of these proposed reforms is realized, the state executive can be made more vital by giving to the governor the power to investigate the workings of any executive department, and to remove the head of any department, whether appointed or elected, for reasons that seem good to the governor.

Another practical reform is to concentrate the boards into fewer units, if possible, putting all state institutions under one body (*see* BOARDS OF CONTROL). Questions arise, however, as to the authorities of such boards over the state educational institutions, which in most states are well out of politics; and which feel that they have an educational policy widely separated from mere considerations of finance and administration.

Another proposed reform is the recall (*see*) of executive officials, which has become a part of the law of some states, but has as yet (1913) not been applied in the case of any governor. The recall is intended to be a form of removal of executive officials quicker than impeachment; but it may be simply a political measure; and the recall does not bring about the desirable close relations and harmony of action between the high officials of the state.

Control of the State Executive.—The popular fear of executive power is reflected in the various means of checking and restraining executive officials. In the first place almost all the important well-paid offices are filled by popular election, and for brief terms, nowhere exceeding about four years. Governors almost never serve more than two terms, and there are frequent changes in other state officers. The system of recall, already legal in some states, makes it possible to cut short the already brief terms, and thus to resume and to reassign executive authority.

The state executive is much restrained by the state legislatures, which fix the terms and salaries of almost all the minor officials, and of many of the heads of departments. By their control of appropriations also, they can prevent the executive from carrying out plans of investigation or change; and they can paralyze almost any executive department by cutting off or by minutely limiting the appropriation.

This forces many executive officers to make appointments to please members of the legislature, upon whose good will the efficiency of the office depends.

Executive officials are subject to investigation by legislative committees, which are often searching and sometimes hostile. Accounts, contracts, appointments and removals of subordinates, discipline of institutions, relations with corporations and powerful individuals, such matters are searched to the bottom.

All executive officials are subject to judicial control, first, through the authority of the judges to hold executive acts unconstitutional and therefore void; that is the courts may decline to apply executive decisions, on the ground that they are beyond the authority of the official making them. Appointments and removal of officials are thus frequently set aside by the courts. In addition, the courts have authority to summon executive officials as witnesses except the governor who as the head of the state is exempt from such process; and to compel the testimony of officials in pending suits. The courts also freely apply writs of injunction (*see*) and mandamus (*see*) to executive officials, and thus inhibit or compel the performance of executive functions.

See ADJUTANT GENERAL, STATE; ATTORNEY GENERAL, STATE; APPOINTMENTS TO OFFICE; BALLOT, SHORT; BOARDS OF CONTROL, STATE; BOARDS, STATE EXECUTIVE; CIVIL SERVICE, STATE; COMMISSIONS IN AM. GOVERNMENT; COUNCIL, GOVERNOR'S; EXECUTIVE AND EXECUTIVE REFORM; GOVERNOR OF THE STATE; GOVERNORS, CONFERENCE OF; HOUSE OF GOVERNORS; INFLUENCE IN GOVERNMENT; INSTITUTIONS, STATE ADMINISTRATION OF; LIEUTENANT GOVERNOR; OFFICE; ORDINANCES, EXECUTIVE; PATRONAGE; POPULAR GOVERNMENT; PROCLAMATIONS, EXECUTIVE; QUALIFICATIONS FOR OFFICE; REMOVAL OF PUBLIC OFFICIALS; SEPARATION OF POWERS; SPOILS SYSTEM; STATE GOVERNMENTS, CHARACTERISTICS OF; VETO POWER.

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bibliography in A. B. Hart, *Manual* (1908), § 106 (lects. 28, 29); *Am. Year Book*, 1910, and year by year.

ALBERT BUSHNELL HART.

STATE FARMS AND AGRICULTURAL STATIONS. See AGRICULTURAL EXPERIMENT STATIONS.

STATE GOVERNMENTS, CHARACTERISTICS OF

Powers of the National and State Governments Contrasted.—The United States of America, being a federation, has a government made up of two distinct parts: a national government voiced by its three great departments; and the several governments of the forty-eight states or commonwealths composing the Union. Under the control of the national government are the territories and colonies of the United States including the District of Columbia. Under the control of the states are the counties, towns, townships, cities and villages within their borders. Each state under the national constitution may organize its governmental system as it pleases, provided only it be republican in form, that is, organized so that the will of its citizens can be ascertained and enforced (see CONSTITUTIONS, STATE, CHARACTERISTICS OF).

The powers vested in the states in accordance with the national Constitution may be summarized as the sum total of all sovereign powers, except those delegated to the national Government, or expressly forbidden to the states (Art. I, Secs. viii, ix, x). If doubt arises as to whether or not some exercise of power belongs to the national or to the state governments, the Supreme Court of the United States, in a case brought before it on appeal, marks the boundary line between the two fields of conflicting jurisdiction. The states collectively in their relations to the national Government are in theory neither subordinate nor superior to it but rather are coördinate with it. The true theory of the Union is that the sovereign powers of the United States of America are by the Constitution divided, the exercise of certain specific powers being delegated to the Federal Government; the residue, excepting a few prohibitions expressly named, belonging to the states. Each division, therefore, federal or state, may use the inherent powers of sovereignty, such as the powers of police, taxation, and eminent domain, provided that each confines itself to its own field as defined by the Constitution. In point of fact the powers of the states unitedly are much greater than those exerted by the Federal Government. The national organization possessing the powers involved in international relations, including war and diplomacy, represents the personality and

dignity of the sovereign state and is the only government officially known to foreign states. But in domestic matters its powers are chiefly in regulation of general economic interests. The states by contrast control the mass of governmental power in respect to life, property and education and legislate freely on property rights, occupations, crimes, charities, sanitation, and schools. Each state may levy what taxes it pleases except import and export taxes; and it may legislate for the general welfare of its citizens, subject only to the few restrictions of the national Constitution. As the states also through their electorates control directly or indirectly the personnel and policy of the national Government, and have the right to amend by a three-fourths vote the national Constitution (Art. V) the weight of power lies with them collectively as against the Federal Government, though admittedly no state singly or in combination has the legal right to withdraw from the Union (see STATE SOVEREIGNTY; UNITED STATES AS A FEDERAL STATE).

Local Administrative Bodies.—Under its powers each state formulates for itself a constitution in which is set forth the organization of the several governmental departments and their respective powers. These more general provisions are then elaborated into statutes by the legislature and then again still further detailed through ordinances passed by inferior law making or administrative bodies. As each state determines for itself the nature of its local subdivisions, there are wide variations in detail, though there is approximately a common type. Every state, for example, is subdivided into counties, but the county may be a carefully organized body politic of large autonomous power, as in the South; or it may be a mere judicial district, as in Rhode Island. Within the county, urban centers are incorporated under charters, general or special; rural communities are in some states organized as administrative districts for such purposes as education or elections; in other states as townships, and in New England as towns. In New England the county is relatively unimportant and the town with its large local powers is the really important body politic next to the state itself. The township system, pre-

valent chiefly in the northern half of the United States, combines in general the purely local powers of the town with service as an administrative division of the county. It should be said, however, that there are many varieties of township government (*see* COUNTY GOVERNMENT; TOWNS AND TOWNSHIPS).

All of these subdivisions, county, city, township or town, and the local districts or villages included within these, derive their powers either directly from the state through its constitution, or from the authority of the legislature. They are therefore entirely subject to the jurisdiction of the state and have no official relationship whatsoever with the Federal Government. Those powers derived from the state constitution cannot be altered by the legislature; but powers held from the legislature are subject to revocation or amendment by ordinary processes of legislation. In general these local bodies politic throughout the states are granted large powers of local autonomy, in accord with the principle of decentralization prevalent throughout the United States. In powers general in kind though local in practice, such as taxation, assessment, policing, education and roads, there is a strong tendency to bring about uniformity through constitutional requirements or through supervisory state administrative boards. There is, however, no well defined system of general supervision over localities such as that of France or Great Britain. For this reason the details of local government in each state, or even in each county, city or township of the state, must be obtained by a separate study in each case.

Judicial Department.—In all the state constitutions provision is made for the separation or differentiation of the three departments of government. The separation is merely formal in many states since the legislatures retain a large control over administration, and the governor through his veto power has a fairly large influence over legislation. The judicial department is the one at present most free from the control of the other two departments, though in the eighteenth century it was largely under the control of the legislature. Constitutional conventions have steadily reduced this control, and constitutions now regularly provide in quite full detail for the organization, functions and powers of the several grades of courts (*see* STATE JUDICIARY).

The American type of judicial organization is a three grade system of courts, consisting of: (1) a supreme court; (2) a series of intermediate courts usually known as circuit, district, or county courts; (3) many petty courts of local jurisdiction, such as the courts of the justices of the peace. The supreme court is regularly a court of appeals and has as a rule only slight original jurisdiction. The other courts of the state exercise original jurisdiction only, in accord with requirements laid

down in constitution or statutes. From this general type of judicial organization there is wide diversity, especially in the older states, in respect to names, organization and jurisdiction of the several courts. In some of the larger states, a series of circuit courts of appeal may relieve the supreme court of its less important business, or there may be a series of courts above the county courts, having original jurisdiction over the more important cases. County courts also are often charged with administrative functions, especially in the South. In thirty-seven of the states, judges are elected at the polls but in the eleven other states are named by the legislature, or executive, or by both jointly. There are many variations in their tenure of office. In three states there is a life tenure; but as a rule the term varies from two to twelve years. The periods set by over twenty states are six, four, and two years respectively for the three grades of courts. A class system is usually in use so that one half or one third only of the supreme bench is elected at each election.

The judicial department has jurisdiction over all cases that arise under the constitution and laws of the state, and from the final decision of its supreme court on questions involving only state law, provided there is no "federal question" (*see*), there is no appeal to the federal courts. State courts, however, have in many cases that arise under federal law concurrent jurisdiction with the federal courts, and decisions in such cases as involve an authoritative interpretation of the national Constitution may be reviewed by the national Supreme Court. Criminal cases are presented to the courts through either the grand jury (*see* JURY, GRAND) or the state's attorneys (*see* LAW, CRIMINAL). The common law jury is used in both civil and criminal trial cases, but when specified in the constitution may be waived in civil cases or abolished in petty or misdemeanor cases. Provision is sometimes made for a jury of less than twelve or for a verdict rendered by a vote not unanimous. Thirteen state constitutions expressly authorize the supreme court to supervise inferior courts and six states provide that judges may suggest improvements in the law for legislative action. Six other states, mostly in New England, also allow the governor, or the legislature, or both combined, to ask the supreme court for opinions on important questions of law. The personnel of the judiciary is regularly high and the judgeship is a position of honor and dignity. The chief defect in the judicial system lies in the unscientific character of state law and procedure, so often contradictory and so productive of frequent miscarriages of justice through useless and protracted litigation (*see* JUDICIARY AND JUDICIAL REFORM).

Executive Department.—The power of the executive department is in form centered in

the governor, who, in about half of the states, is elected for a term of four years; in nearly all the others a two year term prevails. In general he is required to be over thirty years of age, a citizen of the United States, and a resident of his state. About two-thirds of the states have lieutenant governors (*see*), also, whose only function is to preside over the senate, or to act as governor in case of necessity. In about twenty states the governor's salary is \$5000 or more annually. In the other states it rarely falls below \$2000. There are occasional restrictions against his reelection for two successive terms, or against his becoming a candidate for any other office during his term as governor. The governor has certain routine duties common to all states; he represents his commonwealth in its dealings with other states, he may summon the legislature in special session or adjourn it in case of disagreement, he "must take care that the laws be faithfully executed," may commission officers and fill vacancies *pro tempore*, and is the commander of the military forces of the state. He regularly has large powers of pardoning often, however, shared with a board or with the senate. He has the right to make formal recommendations to the legislature, and may request information or opinions from the several officers of administration. In very few of the states is there a governor's cabinet or a council, and this must necessarily be so while the governor has so small a control over administration. In addition to his ordinary powers every state but one (North Carolina) authorizes its governor to exercise a suspensive veto over legislation. In about two-thirds of the states the governor may use this power against items of appropriation bills or in two states even against the items of any bill. In most of the states the veto may be overridden by a two-thirds vote as in the national Constitution, others require a majority or else a three-fifths vote. In many states, at the end of a legislative session, the governor's power over legislation increases, since he may "kill" a bill by refusing to sign it before adjournment, or he may by law be allowed from five to thirty days after adjournment to decide whether or not to sign. This power of veto lodged in the executive, especially when coupled with the power to veto items and to disapprove after adjournment has become a most effective restraint on legislative action, and has been vigorously used to enlarge executive powers and to conserve public interests (*see* EXECUTIVE AND EXECUTIVE REFORM IN AMERICAN SYSTEM; GOVERNOR; STATE EXECUTIVE).

In state administration the chief departments have functions broadly indicated by the titles of their heads. These are: (1) the secretary of state; (2) the state treasurer; (3) the state auditor or comptroller; (4) the attorney general; (5) a superintendent of public instruction. Other depart-

ments with varying names and functions exist, along with numerous boards and commissions more or less permanent in tenure. These number in some states from thirty to fifty, and being poorly supervised form a chaos of administration (*see* STATE DEPARTMENTS, HEADS OF).

Administrative Reorganization.—The governor's power over state administration is legally insignificant though steadily increasing. During the revolutionary period legislatures controlled and at times carried on through committees, administrative business. Yet as this responsibility multiplied through the growth of population and wealth, it was found to be increasingly difficult to handle so many details through temporary or even permanent committees. At first the problem was solved by the organization of boards, commissions or departments charged with specific duties, whose heads were appointed by and responsible to the legislature. These bodies, however, have gradually become so numerous that state administration is unwieldy, wasteful, and thoroughly unbusinesslike. Each drifts along nominally controlled by the legislature but in reality is unsupervised and irresponsible. The evils of this system are so clearly manifest that remedies are sought after and in part adopted. In substance these changes, as indicated by recent legislation and constitutional amendment, are as follows: (1) legislative control over administration is minimized by provisions inserted in the constitution fixing the organization and powers of administrative boards and departments; (2) the power of appointment is either transferred to the governor, or to the governor by and with the advice of the senate, or the heads of the principal departments are elected by the voters; (3) there is a slowly increasing tendency to require the several departments and boards to report semi-annually to the governor, to make him *ex-officio* a member of all boards or commissions, to authorize him to investigate at his discretion any department or office, especially those handling the finances of the state, or to suspend or remove those officials who seem to be derelict in their duties. In about ten states the governor is also charged with the duty of presenting to the legislature at the opening of each session a budget of anticipated receipts and expenditures. In short, the loosely organized administrative system of the revolutionary period is slowly disappearing and in its place the states are centralizing administrative powers in the governor's hands, as in the national system, thereby enhancing the dignity and prestige of the office. In future years much more attention will probably be paid to the proper organization of the administration by consolidating its functions into a few well organized coördinated departments under the supervision of the governor, who also should have the power of appointment

and removal over the heads of these. Civil service rules providing for the merit system of appointment and tenure would also remove the danger of a possible "spoils" system (*see EXECUTIVE AND EXECUTIVE REFORM; STATE EXECUTIVE*).

Legislative Department.—The lawmaking body is the most important department in a democratic system of government. In it is centered that mass of sovereign power inherent in the state under the national Constitution. Especially was this true in the revolutionary period, during which the legislature was considered the bulwark of popular liberties and was exalted at the expense of the other two departments. For the last hundred years the trend has been otherwise, since the legislature has steadily lost prestige and is today the least trusted of the three departments of government. In consequence of this distrust the constitutional convention has slowly risen into importance; by its power to formulate the fundamental law of the state it is able to reduce legislative authority to comparative insignificance. This it accomplishes by detailing in the constitution the entire organization and powers of government, leaving as little as possible to legislative discretion. It furthermore enlarges as much as possible the powers of the other two departments and places in the constitution long lists of limitations on legislative authority. The electorate also has the power of referendum in respect to revisions or amendments to state constitutions, and since the opening of the twentieth century has gained in many states important powers of initiative and referendum in respect to all sorts of legislation. The states of Oregon and Oklahoma are the chief exponents of these experiments in direct democracy. The legislature, shorn of its old time powers through these rival lawmaking bodies, has become insignificant in fact if not in theory and must soon be radically reorganized if it is to maintain its place in state government (*see LEGISLATURE AND LEGISLATIVE REFORM; REFERENDUM*).

A constitutional convention is always a unicameral body with a membership usually made up of delegates elected by popular vote from districts of equal population. It exists only for the purpose of formulating or revising a constitution and adjourns *sine die* when its work is completed (*see CONVENTION, CONSTITUTIONAL*). By contrast a legislature is a bicameral body—a senate and a house of representatives—meeting in most states biennially for a session the length of which is usually fixed by the constitution at from forty to ninety days. The members of both houses are in nearly all cases elected by popular vote from districts of a single member each. Since the house has a membership from two to three times that of the senate, its members represent proportionately smaller districts. There

is no uniform rule in regard to the number of members in each house, but the average membership is about thirty-five and ninety respectively, though there are some wide variations. In all the states taken together there are about seven thousand legislators in the legislatures. The usual tenure of office is four years for senators and two for members of the house. In all states salaries are paid to legislators but in only a few states is this at all generous. As a rule payment varies from \$5.00 to \$10.00 per legislative day, with mileage added for traveling expenses. Each member by law and custom must reside in the district he represents; and each district is in theory supposed to be equal in population to similar districts within the state. In most states a reapportionment is ordered by the constitution after every decennial national census. In dividing up the state into equal districts, a legislature will not infrequently use the "gerrymander" (*see*), that is, it will endeavor to form the districts in such a manner that the party in power will gain more seats in the election than it would legitimately expect from its voting strength. Reapportionment committees by long practice have become expert in the gerrymander, and, so far, no successful device has yet been developed as a check on this evil.

Legislation.—A state statute is not a formulation of principles or fundamentals to be elaborated in detail by administrative departments or local governments, for these details are regularly included in the law itself, which thereby becomes verbose, technical and complicated to the last degree. Since also it is often hastily passed without much attempt to relate it to existing legislation, the statutes of any given state become so confused within a few years that even the courts often cannot tell what is or is not law, and thus arises a mass of useless litigation. The remedies developing for such conditions at present are: (1) the use of trained experts for the preparation of bills; (2) periodical revisions of statutes by expert commissions; (3) the legislative reference bureau (*see*), which aims to place at the service of legislators desirous of preparing bills complete information in respect to existing legislation (*see LEGISLATURE AND LEGISLATIVE REFORM; STATUTES, STATE*).

One of the chief causes for legislative inefficiency is due to the fact that for partisan and selfish reasons, special, local or private legislation is handled and passed by the same procedure as general legislation. This is a prolific source of corruption and unduly complicates legislative processes, since legislatures collectively pass every legislative year about 15,000 laws, only about two-fifths of which are general in their nature (*see LEGISLATIVE OUTPUT*). It must be remembered also that the laws passed are a fraction only of the total number of bills introduced. Obviously

such a mass of legislation can be handled neither wisely nor effectively, so that one may readily comprehend why American state legislation is so inferior in quality to that formulated by the leading states of Europe (see LEGISLATIVE SYSTEM IN EUROPE).

At the opening of a legislative session each house is organized by the election of officers and the adoption of rules. Each house elects its own presiding officer, except in those states where by constitution the lieutenant-governor presides in the senate. An elected presiding officer is always a party leader and he is expected to further his party's bills even to the extent of being strongly partisan, if necessary, in his rulings. When organized, the two houses in a joint session listen to a message presented by the governor, in which he makes formal recommendations in respect to possible legislation. Unless the governor is a powerful personality in close sympathy with the dominant party, or backed by a strong popular support, his recommendations have small influence on future legislation. His message, however, is referred to suitable committees for consideration. Administrative heads often make recommendations through the medium of the governor's message or in their annual reports; but they have no right of initiation, nor have they the right of presence and debate in either house. Legislation is fully initiated by the members themselves in either house, though, in about half the states, money bills must originate in the larger house. Important legislation naturally is initiated by the leaders of the dominant party who also are regularly chairmen of the principal committees. These committees exist in every state legislature and are formed after the familiar pattern of those in the national Congress. They are numerous, large in membership, and virtually control legislation. They are usually appointed by the presiding officer, who sees to it that his party members are placed so as to dominate legislative policy. Members of the other party are placed on the committees but are always in the minority so as not to impede action desired by the majority. Every bill initiated is referred to a committee which in its discretion may ignore it or amend it and finally report it to the house with a suitable recommendation. Many bills are never reported or even considered by the committees, but what bills they recommend for passage are generally adopted, though occasionally amended as the result of discussion. The sessions of the committees are secret, though at request, public hearings may be granted so as to allow those interested for or against a bill to discuss its provisions before the committee. Members of committees are often also influenced by "lobbyists," persons who as a rule are paid to further some special bill, too often suspicious in kind. Legislative action in one house must of course be duplicated in the other and then

must pass the ordeal of the governor's scrutiny and possible veto. The constitution usually sets a day on which bills passed shall go into effect (see COMMITTEE SYSTEM; RULES OF LEGISLATIVE BODIES).

State Politics.—A sketch of state government would not be complete without a short summary of party organization. No state has permanent parties organized for the promotion of local issues mainly. The parties are national and in electoral campaigns discuss national more frequently than local policies. A national party finds it to its interest to push its organization into each state, city or county, so as to get control of all offices for party purposes; and this becomes possible since citizens regularly become absorbed in national issues to the neglect of local necessities and issues.

A dominant party in a state naturally seeks to arrange the system so as to perpetuate itself in power and conversely to weaken its opponents as much as possible. Hence it seeks by efficient organization to develop a system whereby it may further such legislation as will strengthen its own interests. If the two chief parties are fairly even in numbers, the party in power must legislate on the whole for popular interests, lest it be overthrown at the next election. If the two parties are quite unequal, the dominant party easily develops a "boss," who controls the party organization and uses it for selfish purposes or for the sake of powerful economic interests anxious to get favors from the state through legislation.

Even if the parties are fairly equal in numbers, a party in power can often manipulate legislation in such a way as to interfere seriously with the other's chance of success. This may be by gerrymandering, or by inefficient ballot and primary laws or even by bribery or other corrupt devices, since a party in power can always rely on large contributions from the "interests," to be used ostensibly for the legitimate expenses of electoral campaigns. The numerous reform movements of recent years have in the main busied themselves with remedies for such evils as these; and hence agitation and discussion have centered about, for example, the alphabetical Australian ballot, the short ballot, registration laws, primary elections, corrupt practices acts including lobbying, and regulations of party organizations. Comparatively little has yet been done in respect to such vital reforms as the reorganization of the legislature itself and of the chaotic administrative system, or in respect to the simplification of law and procedure. Conditions, however, are by no means hopeless. What evils exist are due more to neglect and incompetency rather than to corruption, and present indications point to the winning of many civic reforms in state and municipal government through a growing intelligent interest in public questions.

See ELECTION SYSTEM IN THE UNITED STATES; EXECUTIVE AND EXECUTIVE REFORM; EXECUTIVE POWER, THEORY OF; GOVERNMENT, THEORY OF; GOVERNOR; JUDICIAL POWER, THEORY OF; JUDICIARY AND JUDICIAL REFORM; LEGISLATIVE POWER, THEORY OF; LEGISLATURE AND LEGISLATIVE REFORMS; PARTY, PLACE AND SIGNIFICANCE OF; POPULAR GOVERNMENT; REPRESENTATIVE GOVERNMENT; SEPARATION OF POWERS; STATE DEPARTMENTS, HEADS OF; STATE EXECUTIVE; STATE JUDICIARY; STATE LEGISLATURE; STATE, THEORY OF.

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STATE GOVERNMENTS DURING THE REVOLUTION

Period of Transition.—When the royal governors fled to a man-of-war, as in Virginia or North Carolina, or were seized and confined, as in the case of Governor Franklin of New Jersey, or in some manner ceased to govern, the government in the several colonies fell into the control of revolutionary organizations of various characters. In Connecticut alone was the colonial governor not displaced by the success of the revolutionary party. There, the administration, after the break with England, was conducted by the governor and a council of safety elected each year to assist the governor in executive work. A house of representatives and a council, differing from the council of safety, formed the legislative body, or general assembly. It was this assembly that passed a resolution (October 10, 1776) changing the colony to a state, but leaving the framework of government as it had been of old. Rhode Island, too, retained its charter government in its old form, though its loyalist governor fled, and was replaced by one favorable to the Revolution. With these two exceptions, there was much confusion and danger of anarchy before a new government deriving its powers directly from the people could be set up. In New Hampshire when the governor fled leaving the colony "destitute of legislation, and no executive courts being open to punish criminal offenders," the lower house called a congress, which after being duly elected assumed the lately abandoned powers of government. In Massachusetts, the action of the governor annulling the writs of election of a new rebellious assembly was ignored, and the representatives met in spite of the governor's orders, assuming full powers of government in that province. In North Carolina a congress, and in Virginia a convention, was called by the revolutionary leaders, acting through the committees of correspondence, and these assemblies, or deliberative meetings of delegates

elected by men opposed to the regularly organized government, took up the task of preserving social order. In other cases, as in Pennsylvania, the old assembly, purged of loyalist members, continued the work of government. In this manner either revolutionary conventions or congresses, or old assemblies having become revolutionary, took up the work of regulating society, the administrative side of the work being in most cases carried on by committees of safety (*see*) chosen out of the body of the revolutionary assembly. The old colonial judiciary had been, in some provinces, thrown into as much confusion during the early days of the Revolution, as had the other branches of government, and in some cases the revolutionary legislatures suspended the administration of justice for a year at a time. During these periods the provincial committees of safety, and their subordinate committees in counties and districts of the provinces, administered such rude justice as became imperative.

Recommendations of Congress.—In November, 1775, the Continental Congress recommended the making of temporary governments, and in May 1776, new permanent governments, and that work began immediately, Virginia, New Jersey, Pennsylvania, Delaware, Maryland, Georgia and New York drafting new instruments of government before the expiration of the year.

Constitutional Conventions.—This work was done at first by conventions not specially chosen for the purpose, and the constitutions thus produced were foisted on the people without asking their approval, but gradually the ideal way was worked out, and in 1780 Massachusetts attained the perfected method, the convention being specially chosen and the constitution being submitted to the people for their approval (*see* CONSTITUTIONAL CONVENTIONS).

Philosophy of Government.—Embodied in these constitutions were many expressions of the American theory of government. In stating these, the makers of new constitutions were much influenced by a letter of John Adams, later printed with the title: "Thoughts on Government applicable to the Present State of the American Colonies." The constitution makers held that the object of government was to secure to the people their happy existence. The power is the people's, and the magistrates are merely trustees and servants to whom powers are delegated for brief terms. A standing army in times of peace is, they declared, a menace to the people's freedom. The powers of government must be balanced between executive, legislative and judiciary, so that each may restrain and correct the other. Finally, in their efforts to restrain government, the creators of the constitution placed in the instrument a bill of rights—natural rights of the individual, which were to be protected against the encroachments of government. In the constitutions, too, there appeared the thinking which accompanied the radical movement, ever keeping pace with the growth of the desire and the struggle for independence of Great Britain. Dislike of privilege and hereditary rank appeared in some constitutions. Office was never to be hereditary, and even hereditary social rank was not to be bolstered by primogeniture and the entailment of estates. There was, moreover, to be no privileged class. All of this seems to indicate that nothing but a republican form of government was thought of, but there were men even among the revolutionists who thought with Zubby, of Georgia, who declared in Congress that a republican government was "little better than a government of devils." In truth, but for the fact that the great conservative loyalist element in each province had been eliminated by persecution, the advocates of democratic forms of government would have had no easy triumph. As it was, there were men who helped to make these state governments republican in form, who dreamed of the ultimate formation of a national government over all the states which should be monarchical in form.

Frame of Government.—All of the new constitutions provided for three branches of government, executive, legislative, judicial. With one exception they provided a single governor, from whom were taken many sources of strength possessed by governors of the present day. The legislatures elected him in eight states, and in eleven he was not allowed a veto. In ten states his terms of office was but a year, and lest, even in that time, he should become too powerful some of the states contrived a council of state to advise him. This "fifth wheel to a wagon," as Jefferson called it in derision, was chosen by the legislature so that the men who were interred in this "grave of useful talents" were also creatures

of the legislature. In some cases the governor could not adjourn or prorogue the legislative body. This fear of the executive was, of course, the result of the colonial experience with royal governors. Some of the wiser leaders saw the folly of this jealousy of a governor of their own choice, and Jefferson complained that too much power was lodged in the legislature of Virginia. He did not like its power to elect the governor and appoint the judges. The only check on the legislature in most states was that there were two houses, one being constructed as a rule on a more aristocratic basis than the other; and thus the upper house often checked the more radical tendencies of the lower. Two states, however, Pennsylvania and Georgia tried the experiment of a single house, but this plan was soon abandoned. Massachusetts, until the making of her new constitution in 1780, had a most irregular government, in that she had no governor, but only a House of Representatives and a council of eighteen members elected by the House. The council and various committees shared the executive work. The judiciary (as well as the executive in most states) was appointed by the legislature or one branch of it, but there were exceptions, notably in Pennsylvania, where judges were elected by the people. In New York, the judges as well as other officers of government were chosen by a council of appointment. The tenure of the judges was during good behavior in most of the southern states, but was limited at the north, seven years being the tenure in Massachusetts and New Hampshire.

Powers of the Governments.—To these new governments were given many powers not granted at a later day after the creation of a federal government. South Carolina for example, specifically endowed its government with the power to provide an army and navy, to make war, conclude a peace, enter into treaties and to lay embargoes. Other states specified some of these powers and implied the rest. Nor did the governments hesitate to exercise these powers. So great was Virginia's diplomatic activity that she established a clerkship of foreign correspondence. Through diplomatic agents she sought arms and money from France and Spain, and with the latter power negotiated for consent to erect a fort on the border between Virginia and Spain's territory in the Mississippi Valley. Embargoes were laid and ports thrown open to the world upon the action of state legislatures. Nine states fitted out navies, and all organized armies, offering bounties for enlistments in defiance of Congress' urgent appeals that they should not. Paper money was issued in ruinous rivalry to that issued by Congress. Post routes were established and Indian affairs regulated by state action. Finally, the states alone had the power of collecting revenues and taxes, keeping the social order and administering jus-

tice. The state legislatures instructed their delegates to Congress, and limited and defined their powers. The delegates to Congress were elected by the state legislatures except in New Hampshire and Georgia. Recommendations by Congress had first to be approved by state authorities before a state officer would obey.

Character of the Governments.—Although the radical political movement which had accompanied the revolution had succeeded to the extent of setting up a republican form of government, there were many remnants of the old government by the upper classes. Government still derived its "just powers" from the consent of the property owners and tax payers, since they alone enjoyed the franchise. In addition, there were some remaining religious tests, as in South Carolina, where voters must believe in a future state of reward and punishment. Moreover, in most of the states there were suffrage laws so framed as to prevent all men of suspected loyalist tendencies from voting. During the Revolution manhood suffrage existed only in Vermont. Moreover, the privilege of office-holding was denied to those who did not believe in certain creeds and doctrines, and certain property qualifications were demanded, increasing with the dignity of the office. From governmental positions, too, all suspected loyalists were debarred. Finally, proportional representation in the legislature did not exist, but a county or town was represented on the basis of its taxpayers, or its property valuation, and not on the basis of the number of human beings it contained. The senate in three states contained an equal number of representatives from each county, regardless of their proportional population. The government in the new states had, therefore, a somewhat more conservative character than the radical spirit of the time would seem to have tolerated.

Activities of Governments.—The existence of war brought to these newly launched governments a heavy burden of extra duties the records of which crowd the printed volumes of revolutionary documents. The governors, who were usually commanders-in-chief of the state armies, were specially burdened, though they were aided in their onerous administrative duties by councils and committees of safety. Some of the especially famous war governors were Jonathan Trumbull of Connecticut, George Clinton of New York, Patrick Henry and Thomas Jefferson in Virginia, and John Rutledge of South Carolina, and the correspondence of each reveals a tremendous activity. After organizing armies and navies they were constantly occupied with securing the necessary supplies, urging the clothier general, the commissioner of hides, the naval commissioner, or the naval agent to greater activity. Added to this was the necessity of collecting the quotas asked for by the Continental Congress. Then there was a constant demand for detach-

ments to be sent to danger points, to frustrate the plans of the British or the loyalists. Officers of the Continental troops were always pleading for state troops to reinforce their attenuated lines. In some states the uprisings of loyalists were so feared as to make necessary "Commissioners of Conspiracies" or other committees charged with defeating their plans. The Indian frontiers were a constant care. Besides these troubles there was the unusual difficulty in maintaining public order, preventing robberies, murders, and riotous attacks upon unpopular persons. Finally, there was the need of attention to financial disturbances, attempts to prevent the depreciation of paper money, the soaring of prices, and the pernicious efforts of forestallers and monopolists. There was, too, a needed supervision of the confiscation of loyalist estates to prevent dishonest commissioners from appropriating a large part of the proceeds.

Relations Between State Governments.—A study of the relations of state governments reveals some interesting friendships and animosities. Early in the struggle, Virginia and Massachusetts discovered an affinity in their political desires, which led to a warm friendship throughout the war. New Hampshire showed her high regard for Massachusetts by closely imitating in 1784 the Massachusetts constitution of 1780, and there are other cases where one constitution had a great influence upon the character of a later one. In general, the New England state governments were able to preserve harmony in their relations, as in the main the governments in the southern group of states were also able to do. There were, however, some very notable cases of deep animosities between state governments. Of these perhaps the most bitter were those between Pennsylvania and Connecticut due to the quarrel over the Wyoming territory, and between New York and New Hampshire over the so-called New Hampshire (*see*) Grants or the Vermont territory. On some issues like that of the western lands, the states grouped themselves into hostile camps, the small state governments or those without western land claims holding together in opposition to those who had such claims.

The importance and dignity of the state governments throughout the revolutionary period is attested by many significant facts. Strong men preferred to serve in state governments rather than to serve in Congress. The Revolutionary leaders hastened to make state constitutions and to launch state governments, but dawdled along for years in the matter of the Articles of Confederation. There was evidence in plenty of a firmer belief in the perpetuity of the state governments than in that of Congress. It was in these state organizations rather than in the federal Congress that the affections of men of the revolutionary era were rooted.

See CONSTITUTIONAL CONVENTION; CONSTITUTION MAKING IN THE U. S.; REVOLUTION, AMERICAN, CAUSES OF; SUFFRAGE.

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STATE JUDICIARY

Colonial Development.—The judiciary of the American states has developed from that set up in the colonies, which in turn followed the model of the English system. Above the local justices of the peace were usually found the county courts, composed of the justices of the county. The court of general jurisdiction, called the superior or supreme court, was, in some colonies, composed of a distinct body of judges, appointed by the governor; but was often composed of the governor himself, with his council or assistants.

Many judicial functions were exercised by executive and legislative bodies. Thus, equitable jurisdiction in those colonies, which had no formal chancellor, was exercised either by the legislative assembly or by the governor. Judges of the colonial courts were usually appointed by the Crown or by the governor alone, or by the governor and council, and sometimes held office during life or good behavior, but in other colonies they might be, and occasionally were, arbitrarily removed by the governor.

Revisory and controlling authority over the colonial judiciary rested with the judicial committee of the privy council, which might reverse the decisions of the highest colonial courts.

Revolutionary Epoch.—In the first state constitutions the colonial judicial system was, in the main, retained. It became necessary, however, to provide some substitute for the appellate jurisdiction hitherto exercised over the colonial courts by king and council. Courts of last resort were therefore set up in New York and Maryland, but in most of the other states appellate powers were vested either in the legislature or in the governor and council. The dominating position of the legislature over the other departments of government is illustrated both in the judicial power thus actually vested in that body and also in its control over the selection of state judges. In seven

of the original thirteen states (Connecticut, Rhode Island, New Jersey, Virginia, North Carolina, South Carolina, Georgia) the selection of judges was entirely in the hands of the legislature, while in two other states (Pennsylvania and Delaware) the legislature participated with the executive in the choice. In Massachusetts, New Hampshire and Maryland judges were appointed by the governor and council, and in New York by a special "Council of Appointment."

In most of the original states, the tenure of the judges of the highest court was at first during good behavior or until the attainment of the age limit, usually seventy years. In Pennsylvania and New Jersey, however, they served for a seven year term, but were reëligible, while Georgia, in the constitution of 1793, prescribed a term of three years. In nearly all the states, judges were removable by impeachment in the ordinary way. In Maryland they could be removed only for misbehavior on conviction in a court of law, while in Massachusetts and New Hampshire they might be removed by the governor, with the consent of the council, upon the address of the two houses. In many states the legislature could also remove the judges.

The first state constitutions left much power to the legislature over judicial action. Large discretion upon the legislature in prescribing by statute, the details of organization and jurisdiction was conferred. In some states, the legislatures might abolish courts or absorb judicial functions, or increase or decrease the salaries of the judges, an authority which might be used as a means for intimidation of the judges.

Elective Judiciary.—During the first half of the nineteenth century, the state judiciary underwent significant changes. Short terms of office were provided by a number of new states upon their admittance into the Union or subsequently, and were adopted, also, by some of

the older states, as was the case in New York in 1846. This tendency was partly due perhaps to instances in which judges holding office for life became infirm, but is principally a part of the democratic wave which swept over the country including the doctrine of quick rotation in elective offices, which was applied by analogy to appointed judges.

This democratic wave is also responsible for the system of choosing judges by popular vote, an innovation said to have first been suggested by Jefferson. It was employed by Georgia and Indiana as early as 1812 and 1816 for inferior judges. Mississippi, in her constitution of 1832, extended it to all judges. From 1845 to 1860 twenty-three states, in various sections, adopted this system either in whole or in part. It thus became the distinctive American system, has since been steadily extended, and seldom departed from. The only reaction since 1860 has been a tendency to increase the length of the judicial term. In 1869 New York lengthened the term of judges of the higher courts from eight to fourteen years, and four years later Pennsylvania increased that of her supreme court judges from fifteen to twenty-one years. This lead has since been followed by a number of other states.

Organization of the Lower State Courts.—Each state is possessed of judicial powers which are completely independent and self-sufficient, except in so far as they are limited by federal law. In the exercise of these broad and undefined powers, each state has established a hierarchy of judicial tribunals. Provision for this purpose is now usually made in the constitution. At the bottom of the scale stand local courts of inferior and limited jurisdiction, such as the justices of the peace (*see*), the municipal courts, and the county courts. Next above these inferior courts stands a court, known variously as the circuit, superior, or district court, which is usually presided over by a single judge, who holds court successively at different places in his circuit or district. The boundaries of this district are determined by the legislature, subject sometimes to the proviso that it must be composed of compact territory and contiguous counties, and that, in changing the boundaries, the legislature shall not thereby affect the tenure of office of any judge.

This court, under whatever name, is the principal trial court of the state, in which most cases of any importance are litigated. Leaving aside specific differences, it may be said to have general original jurisdiction of the widest character in all cases both civil and criminal, irrespective except in a few states, of the amount of money involved or of the degree of the offense. It also, in general, hears appeals from the inferior courts, is authorized, in a number of states, to issue certain original and remedial writs (*see*). In most states the circuit judges are elected by the

voters of their judicial circuits: in a few, they are appointed by the governor, with the consent of the state senate. In two states they hold office during good behavior, in the others for a term varying from four to fifteen years, the average being six years. Circuit courts are no longer held by members of the Supreme Court, as was once a frequent custom.

State Supreme Courts.—At the apex of the hierarchy of state courts stands one appellate court of last resort in every state, in forty states known as the supreme court, in the other eight as the court of appeals, court of errors, or the court of errors and appeals. A few states interpose courts of appeal (in two states called supreme courts) between the highest and the circuit courts. In addition to the regular courts, provision is also made in a number of states for the creation of certain special courts, such as courts of claims and courts of conciliation. There are a few separate chancery courts.

The supreme court, as the highest court of the state may be generically called, is invariably organized upon the collegiate principle. The number of judges varies from three to sixteen, but is usually odd; in thirty-eight states, the judges of the supreme court were, in 1900, elected by popular suffrage. In the other states they were appointed either by the legislature (Vermont, Rhode Island, Virginia, South Carolina); or by the governor, with the consent of the senate, council, or legislature (Maine, New Hampshire, Massachusetts, Connecticut, New Jersey, Delaware.) Elected judges in a few states are chosen by districts; usually renewal is gradual. Among the various qualifications prescribed for judges are that they shall be "learned in the law," shall have been practicing attorneys, and residents of the state for a stated length of time. In some states, such as Indiana, the judges of the supreme court are also required to be residents of the respective judicial districts into which the state is divided. Among disqualifications are the holding of any other office of trust or profit under the state or Federal Government.

One of the justices of the supreme court serves as chief justice, either because longest in service, or by special designation by the voters, or by the governor's appointment with the consent of the senate, or by the selection of the justices themselves. The chief justice usually distributes the cases to the different justices for the preparation of opinions.

It is not necessary that all of the judges of the supreme court should hear every case argued: a majority of them, constituting a quorum, is usually competent to sit. In some states, as in New York, Ohio, Missouri, and California, provision is made whereby the court may sit in separate coördinate divisions. The jurisdiction of the two divisions may be concurrent, or, as in Missouri, one division may

have exclusive cognizance of criminal cases. In Ohio, cases involving the constitutionality of an act, and those in which the judges of one division fail to agree as to the judgment to be rendered must be referred to the whole court for adjudication. This device is designed to facilitate the disposal of cases, but is apt to make the law uncertain through inconsistency in the line of decisions rendered.

The salaries of the judges of the supreme court vary from \$2500 in Vermont to \$14000 in New York, the chief justice usually receiving \$500 more than his colleagues. They often receive also a liberal expense allowance but are usually forbidden to accept any fees outside of their salaries.

Tenure and Removal of State Judges.—The almost universal rule now is that the judges of the supreme court hold office for a term of years. In only three states (Massachusetts, Rhode Island, New Hampshire) do they still hold during good behavior or until the attainment of the age limit. In all the others the terms range from two years in Vermont to 21 years in Pennsylvania, with an average length of eight years. Vacancies occurring in the office of judges of the supreme court, as well as in those of judges of inferior courts, are, in the majority of states, filled through appointment by the governor, to hold until a successor is chosen at the next regular election, or a special election may be held to fill the vacancy. All state judges are generally removable by impeachment, carried out in the usual manner by the two branches of the legislature; but impeachments are unusual, seldom successful, and beset with technicalities. In about half of the states, judges may also be removed by concurrent resolution of the legislature, or by the governor upon the address of the legislature, but only when the vote is larger than a bare majority and after due notice and opportunity of defense. Judges have occasionally been removed from office through the abolition of the court by the legislature.

Recall of Judges.—A movement, due in large part to dissatisfaction with the unfriendly attitude of state judges toward social and industrial legislation, has led to the suggestion of the recall (*see*) of judges by popular vote. Constitutional provisions to that effect were adopted in Oregon in 1908, in California in 1911, and seem likely to spread. A recall is initiated by a petition signed by a certain percentage of the voters. Thereupon, a speedy special election is held at which the issue may be simply removal or the choice of a successor.

This recall of judges differs from that already practiced in states where judges are subjected every four years to the test of reelection, only in that the recall may take place at any time after the judge has served for a few months, instead of at the end of his term.

Theoretically, popular recall appears to strike a blow at the independence of the judiciary, but, under the system of popular election, judges have not seldom been dependent upon the favor of political managers both for their nomination and election. Perhaps recall elections will prove equally subject to the manipulation of the party manager. The recall seems to be aimed at remedying a symptom rather than the cause of the difficulty. So far as the judges have accepted political methods to secure and retain office, and have exercised political power through their power to declare laws unconstitutional they should be subject to coextensive political responsibility. The whole question of the method of election and the tenure of office of judges is one of the most difficult problems of statecraft waiting for solution.

Jurisdiction of the Supreme Court.—The jurisdiction of the highest court embraces the whole state and is to a large extent appellate in character, though original jurisdiction is sometimes exercised in special cases, particularly in the issuance of original prerogative writs, such as mandamus, quo warranto, habeas corpus, injunction, certiorari, procedendo, etc. The cases in which the supreme court may exercise appellate jurisdiction are in some states enumerated in the constitution, but in others left to be defined by statute. In general, the supreme court hears appeals from the lower courts in all cases of whatever kind, except those involving small amounts of money or in which the offense is of minor character. Where there is a court of appeals above the supreme court, it has only appellate jurisdiction. Cases are brought up from the lower courts to the highest state court by way of appeal or upon writ of error, and the decision of the latter court is final and conclusive, except that, if one of the parties in a case in the highest state court claims a right or immunity under the Federal Constitution or laws, and the court decides against his contention, an appeal will lie to the federal courts.

In six states separate courts of equity held by a chancellor are still maintained, and equitable relief may be sought in such courts. In other states the regular courts hear causes both in law and in equity, but keep them in separate dockets. In most states, the distinction between law and equity has, for practical purposes, been abolished, and the two classes of cases may be merged and both legal and equitable remedies obtained in the same suit.

The greater part of the suits and actions brought within the United States come before the state courts. The law administered there is the statute law of the states, sometimes the statutes of the United States, sometimes international law, and the laws of foreign states (*see* LAW, INTERNATIONAL, PRIVATE), and the common law which was transplanted from Eng-

land so far as not inapplicable to American conditions and in so far as not modified by statute. The common law has been greatly developed by the accretion of precedents and modified by written law. In deciding cases brought before them, state courts apply all the law or laws that bear upon the case. State judges are bound by the provisions of the Federal Constitution, as well as by those of their own state constitution.

Special Provinces of the State Courts.—Since the Revolution, the courts have exercised the power of refusing to apply to a case a statute, state or federal, which they deem in excess of the power of the particular legislature to enact. This function may be exercised by the lower state courts, but is a weapon of so large a calibre that it is usually left to be handled by the higher courts, and particularly by the Supreme Court.

There is a certain range of inherent judicial power, not well defined, which cannot be abridged by legislative action. Thus it has been held that the legislature cannot curtail the power of the courts to punish for direct contempt, nor compel the judges to state in writing the reasons for a decision, nor to prepare syllabi of their decisions. It has also been held that the legislature cannot impose upon judges duties other than those of a judicial nature. Numerous instances have occurred, however, in which the legislature has imposed upon them functions of a ministerial character.

In six states, by constitutional provision, and in one or two others, by statute or custom, the supreme court is required to render an advisory opinion upon questions of law submitted to them by the governor or the legislature. In as much as no actual case involving the matter in question is before the court for decision, the opinion is not rendered in the light of opposing arguments, and has not the weight of a precedent.

The decisions of the various courts of the state are integrated and unified through the process of appeals from the lower to the higher courts. In addition to this means whereby the higher courts may exercise control over the lower courts, it is expressly provided by the constitutions of about a dozen states that the supreme court may exercise supervisory control over inferior courts, and in three other states (New York, Indiana, Texas) the supreme courts may remove from office judges of lower courts. In several states trial courts are directed by the constitution to report to the supreme court any defects which they may discover in the laws, and such information is then transmitted to the legislature for consideration.

In the trial of cases in equity, the judge determines both law and fact, and a jury is dispensed with. In the trial of cases at law, both civil and criminal, a jury is employed in

state courts of general jurisdiction. In criminal cases, the accused is indicted by the grand jury, or, in some states, information is filed against him by the prosecuting attorney, and he is then held for court, unless bailed out. For the purpose of the trial, a petit jury is impaneled, which hears such evidence as may be admitted by the court. The verdict of the jury is usually required to be unanimous, though in some states this is no longer necessary. The verdict may be set aside for certain irregularities and a new trial ordered, unless the accused has been acquitted, in which case he cannot again be put in jeopardy. A jury trial may also be had in civil cases, but is frequently waived by agreement of the parties to the suit, and the judge then determines both law and fact.

Final judgment rendered by the court is, unless appealed from, enforced by a writ of execution directed to the sheriff or other executive officer. If resistance is met in executing process, the *posse comitatus* (see) may be called upon and the whole strength of the government employed to enforce the judgments and decrees of the court.

Judicial procedure in the state courts is full of technicalities which cause numerous and excessive delays in the disposal of cases. The cumbrousness of judicial machinery and the inordinate delays in the administration of justice are among the principal reasons for the widespread dissatisfaction with the courts.

The opinions rendered by the highest state courts are usually furnished with head-notes by the clerks of the courts and published in a series of reports. They form precedents of binding authority upon the lower courts of the particular state, and, on the principle of *stare decisis*, are generally, but not invariably, followed by the court rendering the opinion. The opinions of the courts of one state may be cited in the courts of another, but are, of course, not binding. Each state is to every other a foreign jurisdiction, except as limited by the Federal Constitution, which requires that "full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state."

See APPEALS FROM LEGAL DECISIONS; CASES, SIGNIFICANCE OF, IN CONSTITUTIONAL LAW; CONCURRENT POWERS; CONSTITUTIONS, STATE, CHARACTERISTICS OF; CONSTITUTIONS, STATE, LIMITATIONS IN; COURTS AND UNCONSTITUTIONAL LEGISLATION; GOVERNMENT, THEORY OF; LAW, ADMINISTRATIVE; LAW, COMMON; LAW, CONSTITUTIONAL; JUDICIARY AND JUDICIAL REFORM.

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J. M. MATHEWS.

STATE LEGISLATION, UNIFORM. See UNIFORM STATE LEGISLATION.

STATE LEGISLATURE

Organization.—The state legislature in all states consists of two houses, the senate and the house of representatives, or assembly. The members are chosen by the qualified voters at the regular state elections. The senates have from 17 to 63 members and the house from 35 to 390. The house usually has about three times as many members as the senate. The term of senators in a large number of states is twice as long as that of members of the lower house. The more usual terms are four years for the upper and two for the lower; or two for the upper and one for the lower house. In Massachusetts and Rhode Island all the members of both houses are elected annually. In practically all states the members of both houses are elected from single member districts, intended to be substantially equal in population. The boundaries of the districts are usually revised after each decennial census, which furnishes an opportunity for political manoeuvring and has given rise to the gerrymander (*see*). The members of the legislature receive a fixed amount for each regular session of from \$200 to \$1500 or a per diem allowance which is often limited to a certain number of days, so as to tend to restrict the length of the session. The compensation is much too small to secure a good type of men, at least for any length of time. To the men, however, who join the legislative combine and share in its perquisites the amount of their official compensation is comparatively unimportant.

Sessions.—Only six states hold annual sessions. In Alabama the legislature meets every four years. In all the other states the sessions are biennial. In addition to the regular session, the governor may summon the legislature to meet in special or extraordinary sessions. Special sessions are particularly frequent in states that do not hold annual sessions. Most states having biennial sessions hold them in the odd numbered years. There are, therefore, but few legislatures meeting in the even years. In most states the sessions begin in January; in Vermont, in October. In a considerable number of states the sessions are limited to from 40 to 90 days; and in many other states the members are not paid, or not paid at full rates, for more than 40 to 90 days. The period from January to March in the odd numbered years is the period when

the legislative output is greatest. Most of the legislatures have adjourned by the last of April; though in Massachusetts, Connecticut and Wisconsin, the session often lasts into June or July.

Committees.—The senate is presided over by the lieutenant governor and the lower house by a speaker chosen by the members. The speaker is like the speaker of the House of Representatives (*see*) in his power over legislation. He organizes the committees to bring in or prevent particular legislation. He uses and twists the rules of the house to bring in or prevent votes; he exercises his right of recognition so as to give or refuse the floor as he wills. Either acting as an agent for powerful unseen influences or carrying out his own will, the speaker can actually prevent a vote or any measure to which he is opposed.

The senate committees are often named by the lieutenant governor, but if he is not of the same party as the majority of the senate members, the committees are usually elected by the senate or named by the president pro tem who acts as leader of the majority party. The speaker invariably names the committees of the lower house. In the New England states there are many joint committees. The majority of the members of each committee is assigned to the majority party. Though the number of committees is very large most of them have practically nothing to do. The finance committee, or committee on ways and means, is usually the most important. The chairman of this committee in the lower house is often the floor leader of his party. Others are the judiciary committee, the cities committee, and the committee having charge of public service corporation matters. Practically all bills are referred to committees. In a few states all bills must be reported either with or without recommendation. Commonly, however, no bill is reported which has not the approval of a majority of the committee considering it; most bills die in committee. The committees hold public hearings and discuss and amend the bill and if they deem desirable, report it to the house. The chairman of an important committee wields great power, because usually able to dominate his committee, and this control gives him great influence in other matters of legislation.

Discussion.—The real work of the legislature is for the most part done in committee. There is very little consideration of the merits of a measure in open session. When an important measure comes up for final passage, the only discussion is likely to be a statement for political effect or an explanation of a member's vote. Little effort is made to throw light on the merits of the subject with a view to influencing the thought and vote of other members. No official record of debates is kept or published similar to the *Congressional Record*. For the most part the debates are not worth preserving, but for historical purposes and for use in the interpretation of statutes it would often be of advantage to have a full record of discussions. The *Journals* published for each house contain only the bare minutes of official action. Nor are the proceedings in committee usually preserved, even to a bare record of action taken, though the committee hearings, if recorded, would often be of great service.

Machine Methods.—The degree to which the members of the legislature are actually representative of the wishes of the electorate is largely bound up in the question of political parties and party organization. The causes which tend to make the party organization irresponsible and unrepresentative are accentuated in the legislature, which is therefore a favorable field for the perfection of machine methods. The large membership, the multiplicity of measures to be considered, the intricacy of procedure, the varied interests seeking recognition, the opportunity for deals and log-rolling, all work to make machine rule easy. Often the real control is not held by the majority party but by a bipartisan combine, composed of the kindred souls of both parties who make it their business to serve those interests that can afford to pay liberally in some way, either direct or indirect, for the favors they receive. Thus economic "interests" gain and retain control over parties and legislatures, because control is simply a question of the most effective organization: and the most effective permanent organization is almost always secured by financial backing. The "interests" can, and do, contribute liberally and these contributions constitute the cohesive power that holds the legislative machine together. Of course these contributions are not for the most part in the form of direct bribes. They may be contributions to the party campaign funds, to election or nomination expenses of the member, or in the form of payment for legal or other services, or patronage, or some business opportunity or advantage.

Lobbyists.—An anti-lobbying act requiring the registration of all legislative agents was passed by Wisconsin in 1898 and has since spread to Massachusetts, New York, and a number of other states. These acts usually require corporations or individuals employing agents

to influence legislation to make a sworn report at the end of the session covering all expenses in connection with legislation. Such laws cannot be strictly enforced and little attempt is made to do so, but they serve to secure publicity concerning a few unobjectionable expenditures of associations and corporations and perhaps serve to make them a little more cautious and clever in incurring expenditures for questionable or illegitimate purposes.

Distrust of Legislatures.—With the memory of the royal governors and judges fresh in mind, when the state governments were first organized popular distrust centered on the executive and the judiciary; the legislature was esteemed the special representative of the people and relied on to guard against official corruption and tyranny. Most of the state executive and judicial officers were chosen by the legislature. The governor had no veto and with the extremely decentralized system of administration, had little direct authority. The legislature, however, early began to show its incapacity for the work assigned. The great industrial and commercial development necessitated a great mass of legislation. The rapid development of banking, insurance, turnpike, canal, railroad, telegraph, mining and manufacturing corporations and the constant changes in town, county and municipal government attendant on the industrial growth and development, necessitated a great mass of legislation. The legislatures were unable to adapt their methods to the requirements of the new situation. The result was inefficiency, irresponsibility, machine control and domination by the interests. Consequently, the original trust in legislative assemblies soon disappeared and the people began to search for means of protecting themselves from the inefficiency of their own representatives. A first step was the transfer from the legislature to the people themselves of the power to select state officers. Then the governor was given the veto power (*see*). At present a two-thirds vote is usually required to override a veto. Ordinarily the right of veto applied only to acts as a whole, but now many states have given the governor the right to veto specific items in appropriation bills.

Ill Effects of Short Sessions.—At first the sessions of the legislature were held annually, but beginning about 1850, all but six states abolished annual sessions and adopted biennial sessions, and one state, Alabama, later abolished biennial sessions and substituted quadrennial sessions. Many states also limited the duration of the biennial session to 60 or 90 days. Although biennial and short sessions are now popular—though in Alabama the legislature meets only once in four years—this process tends to the further deterioration of the legislative output. To be sure, it decreases slightly the number of laws passed, serves to relieve

the minds of those to whom legislative changes may prove detrimental, and gives business a long respite from disturbing legislation. But the crowding of an immense mass of legislation into one-half or one-fourth the time formerly allotted can only increase the amount of hasty, slipshod and inefficient legislation. It also tends to increase the number of laws passed to serve some private interest. It is easy to slip such laws through in the hurry and confusion of a short and crowded session. Such sessions are especially conducive to the placing of all legislation in the absolute control of the "organization" or "machine" and the "organization" is usually the creature of the "interests" and particularly inimical to progressive legislation. It makes no difference how short the session, anything approved by the machine will have time to be railroaded through; but with a short and crowded session, any law opposed by the machine will have no chance at all. There will be no chance to bring pressure to bear through an aroused public opinion and the proposed reform will go to committee and never see the light of day. Then, too, there is no time in the short, crowded session properly to consider important measures. There is insufficient time for their study by civic and other associations interested, or to perfect them as a result of criticism received.

Constitutional Restrictions.—Another method of taking power away from the legislature has been through the legislative enactments of the constitutional convention. The first state constitutions were brief documents containing a bill of rights and setting forth the fundamental constitution and relations of the three departments of government. At present many state constitutions are documents of 75 or 100 pages, and prescribe with much detail the organization and functions of different departments and officers and contain regulations on numerous subjects formerly left entirely to legislative control. Another restraint on legislative inefficiency and irresponsibility has been recently developed in a number of states through the application of the initiative and the referendum.

Perhaps the most effective remedies for legislative evils have been the constitutional restrictions on local and special legislation. This movement originated about the same time as that for biennial sessions, and at present almost all state constitutions have more or less stringent and effective restrictions on special legislation. Certain subjects can only be legislated on by means of general laws; and general laws must be passed to govern local and municipal matters. Often these absolute restrictions prove very inconvenient and result in unsatisfactory expedients, or the impossibility of satisfying some real governmental need. If the legislature had had the vitality, intelligence and self-control to discover for itself

the natural remedy for the evils of special legislation, the result would certainly have been better than the inflexible restraint of a constitutional prohibition.

Legislative Product.—And yet with all the decline in the standing of legislative bodies and in the importance of their debates as moulders of public opinion, and with all the restrictions on their powers due to distrust of their capacity and efficiency, it must be acknowledged that progress is being made continuously through the agency of these same legislatures. Our statutes are much superior to those of fifty or one hundred years ago. For this improvement no credit is due to the legislatures themselves, but rather to the outside forces that have conceived and drafted more effective standards and have succeeded in inducing the legislatures to enact them into law.

The making of a statute is by no means the simple matter that it was in the eighteenth century, or even in the early part of the nineteenth, a period of exceedingly crude and ineffective statutes consisting largely of a simple enumeration of direct commands and prohibitions. Such prohibitions, even though accompanied by the most drastic penalties, are for the most part inadequate to cope with the complex conditions now demanding regulation. Moreover, many devices and expedients have been evolved by which the legislative intent can be more easily and effectively carried out, such as publicity, uniformity, registration, examination, licensing, inspection.

While statutes have become vastly more complicated in order to meet present day conditions, and while outside factors have assisted the legislature in their conception and drafting, the legislature itself has done very little to improve its processes and methods to meet more exacting requirements. Recently some progress has been made through the creation of legislative reference bureaus and the employment of official draftsmen. Besides a thorough going reform of technical procedure, the legislature must adopt a method and form the habit of securing a scientific investigation of each measure by one or more men who have expert knowledge in relation to the particular subject treated. For the construction of a house we employ an architect; for the building of a bridge we employ an engineer, but for the conception and drafting of an intricate and technical statute no expert knowledge is deemed essential. Legislative committees should employ experts of all kinds—engineers, accountants, economists, statisticians, physicians, actuaries, and in fact specialists of every class who are capable of disinterested scientific investigation. When, for example, a new problem in banking regulation comes up for consideration the sensible course would be for the committee, after informing itself in a general way concerning the

proposed measure, to employ one or more disinterested banking experts to make a thorough investigation of the measure. They would take one month or six months to go over the proposition and consider it in all its phases. They would consider the practical effect of similar legislation in this or other lands. They would consider the probable effects of the regulation, direct and indirect, beneficial and otherwise. They would determine as near as possible how it would work in actual practice, what difficulties it would meet and what changes would be advisable in order to overcome the same. They would probably suggest a draft of a bill that would accomplish the intended result deftly and effectively and without the crudities, evils and unworkable features of the original bill.

See BOSS AND BOSS SYSTEM; CAUCUS, LEGISLATIVE, FOR LEGISLATION; COMMITTEE SYSTEM IN UNITED STATES; CONSTITUTIONS, STATE, LIMITATIONS IN; CONTRACTS, IMPAIRMENT OF; CORRUPTION, LEGISLATIVE; COURTS AND UNCONSTITUTIONAL LEGISLATION; DEBATES IN LEGISLATURES; ELECTION SYSTEM IN U. S.; EXPULSION OF MEMBERS OF LEGISLATIVE BODIES; FILIBUSTERING IN LEGISLATION; INVESTIGATIONS, LEGISLATIVE; LEGISLATION, DIRECT; LEGISLATURE AND LEGISLATIVE REFORM; PRIVATE BILLS; RULES OF LEGISLATIVE BODIES; STATUTES, STATE; UNIFORM STATE LEGISLATION; VOTING IN LEGISLATIVE BODIES.

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STATE LEGISLATURES, RULES IN. See RULES IN STATE LEGISLATURES.

STATE LIBRARIES. A state library is part of the official equipment of every American commonwealth. The earliest were those in Pennsylvania and New Jersey (1796), Ohio (1817), and New York (1818). In most states admitted to the Union since 1800 the library was established very soon after admission; in many of them, territorial libraries existed for some years before statehood.

The province of the state library is usually formally defined by law and it is clear that the early notions of this province would to-

day appear narrow and inadequate. From the thought of a library chiefly or solely designed for the state's official family, the legislature, courts, administrative departments and officers—in brief all state employees—the conception latterly, and in many states, has grown to mean a library which, without dropping any of its original functions shall hold much the same relation to all library endeavor in the state as the department of public instruction holds toward all educational endeavor. In addition to the functions of advice, inspection, organization, extension and supervision which this comparison suggests, the state library should supplement all other libraries by serving as a central storehouse; ready to send to any part of the state the unusual books that local libraries can not supply. At the state library should be centered all library work done in the state's name; the distribution of its public documents, the allotment of library subsidies or grants, library instruction, correspondence, reference work, traveling libraries, etc. It should be in the fullest sense what was directed by the act establishing the New York State Library, "a public library for the use of the government and of the people of the state."

In the government of state libraries there is a strange variety of methods. There seems to have been no doubt as to the need for such an institution, but great uncertainty as to what to do with it and just where to attach it to the governmental machinery. It appears to have been variously regarded as an educational appurtenance, an annex to the courts, and a separation institution; for in New York, Indiana and Virginia it is in charge of the state board of education, in Illinois, Iowa and North Carolina, of a board of state officers including the superintendent of public instruction, while in Colorado this officer is ex officio state librarian. In Georgia, Idaho, Kansas, Maryland, Minnesota, Missouri, Nebraska, Oklahoma, Oregon, West Virginia and Wyoming the supreme court manages the state library, and in Utah and Nebraska the clerk of the court is ex officio state librarian. In most other states a separate governing board is appointed by the governor or formed by law of state officers.

The appointment of librarian is equally irregular. There is a popular election in Nevada; election by the legislature or supreme court in several states; and appointment, usually by the governing board, but in a dozen states by the governor or (in Louisiana and Rhode Island) by the secretary of state.

Besides state libraries proper, there are many important collections of books gathered by state learned societies (chiefly historical) which must be included in the broad category of state libraries.

See EDUCATION AS A FUNCTION OF GOVERNMENT; LEARNED SOCIETIES; LIBRARIES, PUBLIC.

STATE RIGHTS—STATE SOVEREIGNTY

References: Nat. Assoc. of State Libraries, *Proceedings*, 1898-1912. J. I. Wyer, Jr., "State Libraries" in A. L. A. *Manual of Library Economics* (1913); State Libraries, *Annual and Biennial Reports: Public Libraries in the U. S.* (1876), 292-311.

J. I. WYER, JR.

STATE RIGHTS. The doctrine or principle of state rights has not always been clearly distinguished from the doctrine of state sovereignty (*see*). On the contrary it has not been uncommon to use the two expressions as practically conveying the same idea. Sometimes, however, the phrase used has been as referring to the principle of strict construction of the Constitution (*see* CONSTRUCTION AND INTERPRETATION). After the Civil War, the expression fell into disrepute and has not been used much in recent years. But, although the phrase generally recalls the Civil War and the struggle against national authority, the word "rights" does not necessarily signify sovereignty; and moreover until our constitutional system is all made over, the states must be recognized as having rights safe from the intrusion of the national Government. In the earlier years of the twentieth century the old problem, which federalism always presents—the problem of maintaining local autonomy and liberty and of furthering general and common interests—has been a very real one. As the doctrines of new nationalism and of inherent sovereignty of the national Government are advocated more and more freely, there may be a recurrence to the old expression and an insistence upon the principle that, though the states are not sovereign, they are possessed of great powers of sovereignty which only the nation by constitutional amendment can take away. See STATE SOVEREIGNTY; UNITED STATES AS A FEDERAL STATE. A. C. McL.

STATE SCHOOL FUNDS. See SCHOOL FUNDS, STATE.

STATE, SECRETARIES OF. Under the Articles of Confederation, Robert R. Livingston held the office of Secretary of Foreign Affairs from 1781 to Oct. 20, 1783. He was succeeded in 1784 by John Jay, who was then made Secretary of State in 1789, when the department was established under the Constitution. Following is a list of the secretaries of state:

1789-1790 (March 21), John Jay.
1789 (Sept. 26)-1793 (Dec. 31), Thomas Jefferson (assumed office Mar. 22, 1790).
1794 (Jan. 2)-1795 (Aug. 20), Edmund Randolph.
1795 (Aug. 20), Timothy Pickering (Sec. of War; *ad int.*).
1795 (Dec. 10)-1800 (May 12), Timothy Pickering.
1800 (May 13), Charles Lee (Atty. Gen.; *ad int.*).
1800 (May 13)-1801 (Mar. 4), John Marshall.
1801 (Mar. 5), Levi Lincoln (Atty. Gen.; *ad int.*).
1801 (Mar. 5)-1809 (Mar. 3), James Madison.
1809 (Mar. 6)-1811 (April 1), Robert Smith.
1811 (Apr. 2)-1817 (Mar. 3), James Monroe (re-commissioned, 1811, Nov. 26; 1815, Feb. 28; Sec. of War; *ad int.*, from Oct. 1, 1814, to Feb. 28, 1815).
1817 (Mar. 4), John Graham (Chief Clerk; *ad int.*).
1817 (Mar. 5)-1825 (Mar. 3), John Quincy Adams.
1817 (Mar. 10), Rich. Rush (Atty. Gen.; *ad int.*).
1825 (Mar. 4), Daniel Brent (Chief Clerk; *ad int.*).
1825 (Mar. 7)-1829 (Mar. 3), Henry Clay.
1829 (Mar. 4), James A. Hamilton (*ad int.*).
1829 (Mar. 6)-1831 (May 23), Martin Van Buren.
1831 (May 24)-1833 (May 29), Edward Livingston (recommissioned, 1832, Jan. 12).
1833 (May 29)-1834 (June 30), Louis McLane.
1834 (June 27)-1841 (Mar. 3), John Forsyth.
1841 (Mar. 4), J. L. Martin (Chief Clerk; *ad int.*).
1841 (Mar. 5)-1843 (May 8), Daniel Webster.
1843 (May 9), Hugh S. Legaré (Atty. Gen.; *ad int.*).
1843 (June 21), Wm. S. Derrick (Chief Clerk; *ad int.*).
1843 (June 24), Abel P. Upshur (Sec. of Navy; *ad int.*).
1843 (July 24)-1844 (Feb. 28), Abel P. Upshur (re-commissioned, 1844, Jan. 2).
1844 (Feb. 29), John Nelson (Atty. Gen.; *ad int.*).
1844 (Mar. 6)-1845 (Mar. 6), John C. Calhoun.
1845 (Mar. 6)-1849 (Mar. 7), James Buchanan.
1849 (Mar. 7)-1850 (July 22), John M. Clayton.
1850 (July 22)-1852 (Oct. 24), Daniel Webster.
1852 (Oct. 25), Charles M. Conrad (Sec. of War; *ad int.*).
1852 (Nov. 6)-1853 (Mar. 3), Edward Everett (re-commissioned, 1852, Dec. 9).
1853 (Mar. 4), Wm. Hunter (Chief Clerk; *ad int.*).
1853 (Mar. 7)-1857 (Mar. 6), William L. Marcy.
1857 (Mar. 6)-1860 (Dec. 14), Lewis Cass.
1860 (Dec. 15), Wm. Hunter (Chief Clerk; *ad int.*).
1860 (Dec. 17)-1861 (Mar. 5), Jeremiah S. Black.
1861 (Mar. 5)-1869 (Mar. 4), William H. Seward.
1869 (Mar. 5)-1869 (Mar. 11), Elihu B. Washburne.
1869 (Mar. 11)-1877 (Mar. 12), Hamilton Fish (re-commissioned, 1873, Mar. 17).
1877 (Mar. 12)-1881 (Mar. 5), William M. Evarts.
1881 (Mar. 5)-1881 (Dec. 12), James G. Blaine.
1881 (Dec. 12)-1885 (Mar. 6), Frederick T. Frelinghuysen.
1885 (Mar. 6)-1889 (Mar. 5), Thomas F. Bayard.
1889 (Mar. 5)-1892 (June 4), James G. Blaine.
1892 (June 4), Wm. F. Wharton (Asst. Sec.; *ad int.*).
1892 (June 29)-1893 (Feb. 23), John W. Foster.
1893 (Feb. 23), Wm. F. Wharton (Asst. Sec.; *ad int.*).
1893 (Mar. 6)-1895 (May 28), Walter Q. Gresham.
1895 (May 28), Edwin F. Uhl (Asst. Sec.; *ad int.*).
1895 (June 8)-1897 (Mar. 5), Richard Olney (re-commissioned, 1895, Dec. 3).
1897 (Mar. 5)-1898 (April 26), John Sherman.
1898 (April 26)-1898 (Sept. 16), William R. Day.
1898 (Sept. 17), Alvey A. Adee (2d Asst. Sec.; *ad int.*).
1898 (Sept. 20)-1905 (July 1), John Hay (re-commissioned, 1898, Dec. 7; 1901, March 5).
1905 (July 7)-1909 (Jan. 27), Elihu Root.
1909 (Jan. 27)-1909 (Mar. 5), Robert Bacon.
1909 (Mar. 5)-1913 (Mar. 5), Philander C. Knox.
1913 (Mar. 5), William J. Bryan. A. B. H.

STATE SOVEREIGNTY

Arguments in Support.—The doctrine of state sovereignty as a working principle in American politics was first definitely worked out and presented by John C. Calhoun (*see*) in the days when South Carolina was intent upon nullifying the tariff acts of Congress

(*see* NULLIFICATION). Calhoun had predecessors, to one of whom, John Taylor (*see*), he probably was indebted for a portion of the method of his argument; but no one before him put forth the principle with clarity and precision. In later years Calhoun developed

his argument somewhat, although he did not add much to its cogency. Next to Calhoun in fullness and force of statement, we should probably place Alexander H. Stephens who in his *Constitutional View of the War between the States*, written after the Civil War, enters into an elaborate exposition of the doctrine of state sovereignty and an elaborate defense of the right of secession (*see SECESSION CONTROVERSY*).

Sovereignty Before 1788.—In all arguments defending state sovereignty particular attention is paid to the conditions before 1788, that is to say before the adoption of the Constitution of the United States; for, if the states were not sovereign and independent before that time, one would scarcely venture to declare that they became so as a result of the formation and adoption of the Constitution. Moreover the general philosophy of the argument necessitates an assertion of the separate existence of the states and likewise necessitates a denial of the existence of any superior body or of any political being made up of individuals save the states themselves; for it is necessary to make out that the Constitution was not the work of the American people collectively but the result of independent action of the separate state sovereignties. Calhoun says:

So far from the Constitution being the work of the American people collectively, no such political body either now, or ever did, exist. In that character the people of this country never performed a single political act nor, indeed, can, without an entire revolution in all our political relations.

Constitutional Convention.—Having concluded that the states existed as separate entities before the adoption of the Constitution, the advocate of state sovereignty, naturally, declared that the Constitutional Convention intended to make no substantial change in the relationship of the states, and also that in adopting the Constitution the states acted entirely separately and independently. In this connection attention is called to the fact that the Convention dropped the word "national" which for a time appeared in the Virginia Resolutions (*see FEDERAL CONVENTION*) and also gave up the plan of coercion and the device of a veto on state acts. It must be remembered that for all discussions concerning the nature of the Union in the earlier days, there was little published material concerning the work of the Convention. Even the *Journal*, the bare formal outline of the Convention's work, was not printed till 1819, and the *Madison Papers* not till 1840. Had the materials, now in print, been in the hands of the early defenders of state sovereignty, they might have had somewhat greater difficulty in reaching the conclusion that the Federal Convention did not intend to make a radical alteration of the system of the Confederation.

Adoption.—Advocates of state sovereignty on the whole lay very little stress upon the conscious or express purpose of the framers of the Constitution or of those that adopted the Constitution. Calhoun, as well as later advocates of the doctrine, did, however, lay stress on one of the resolutions passed by Virginia when adopting the Constitution, and reference is sometimes made to the resolutions of New York and Rhode Island. The Virginia resolution is as follows:

We the Delegates of the people of Virginia. . . . Do in the name and in behalf of the People of Virginia declare and make known that the powers granted under the Constitution being derived from the People of the United States may be resumed by them whensoever the same shall be perverted to their injury or oppression and that every power not granted thereby remains with them and at their will.

This clause has been interpreted to mean that Virginia expressly reserved the right of secession from the Union.

Central Statement.—The center of argument is the fact that the states accepted the Constitution separately. In as much as they did so act in isolation and independently, they necessarily continued—such is the contention—separate and independent; no amount of separate action could result in the establishment of unity; no agreement could result in the establishment of a law superior to and binding upon the contracting parties. In as much as there was no political being, such as a people of the United States forming a political entity, before the adoption of the Constitution, there could have been none after adoption and as a result of it; for the result of agreeing could be nothing more or less than agreement. In fact it would appear that, if this form of political metaphysics is consistently maintained, no amount of conscious intention in forming the agreement to form an indissoluble union could have been effective in the establishment of a national political unity superior to the contracting parties, or in depriving the states of essential self-determination as sovereignties.

Calhoun's Assertion.—To speak of the Constitution as if it were merely an agreement between sovereignties, similar to any treaty or articles of alliance, has been common enough. Calhoun, however, more closely viewed the facts; he saw clearly and admitted that the United States Government was a real government and that it came in contact with men immediately; this contact resulted, however, only because of the acquiescence of the state or with its consent. He declared "that there is no direct and immediate connection between the individual citizens of a state and the General Government. The relation between them is through the state. The Union is a union of states as communities and not a union as individuals." He saw moreover that the people of each individual state in adopting the Con-

stitution of the United States acted much as they did in adopting the constitution of their own state and thus established a second government immediately over themselves.

Both governments—that of the United States and those of the separate States—derive their powers from the same source, and were ordained and established by the same authority; the only difference being, that in ordaining and establishing the one, the people of the several States acted with concert or mutual understanding; while in ordaining and establishing the others, the people of each State acted separately and without concert or mutual understanding as has been fully explained. (*Works* I. 167).

It should be pointed out in this connection that the only thing in the Constitution or in the forms used in adopting it which would appear to indicate that the Constitution was the result of agreement and of "mutual understanding" are the words of Article VII:

The ratification of the Conventions of nine States shall be sufficient for the establishment of this Constitution between the States so ratifying the same.

To the simple minded reader there may appear to be a considerable difference between the assertion that the people of each state thus established a government and the assertion that therefore the Constitution was a contract; but if he would understand the doctrine of state sovereignty, he must not hesitate to accept the connection or to take the step called for. Calhoun thus stated the case in his "Letter to Governor Hamilton:"

Thus viewed, the Constitution of the United States, with the government it created, is truly and strictly the Constitution of each state, as much so as its own particular Constitution and government, ratified by the same authority, in the same mode, and having, as far as its citizens are concerned, its powers and obligations from the same source, differing only in the aspect, under which I am considering the subject. In the *plighted faith* of the state to its co-states, and of which, as far as its citizens are considered, the state, in the last resort, is the exclusive judge (Jenkins, *Life of Calhoun*, 291).

Sovereignty and Compact.—Calhoun and those that thought with him adopted the view of undivided and indivisible sovereignty: "Sovereignty is an entire thing—to divide, is . . . to destroy it" (*Works*, I, 146). They also referred to the use of the word "compact" by the men of the eighteenth century in describing the Constitution and, of course, to the Virginia and Kentucky Resolutions (*see*) as supporting the doctrine of complete state sovereignty; they failed to notice that "compact" was the most solemn word of the eighteenth century statesmen, who believed that the state and society itself rested on consent.

Criticism of the Doctrine. In the space here available it is perhaps impossible to present an argument and cite facts that effectually disprove the doctrine of state sovereignty, but the consideration of a few fundamental facts and principles may at least raise doubts concerning its truth. It must be remembered that the argument in its most cogent form

does not rest primarily on the express intention of the fathers to establish a new union in which the states would continue sovereign. Any list of assertions that the fathers did not mean to take away the sovereignty of the states is, to say the least, not convincing and lacks historical confirmation. In fact the student of the convention period is forced to the conclusion that the idea of state sovereignty was met in the Convention, and that it was the intention to form a national system in which the states would no longer have complete sovereignty. Probably the orthodox idea of the time, so far as it dealt with sovereignty at all, was that the states were deprived of a portion of their sovereignty. Madison in his *Writings* (1840, IV, 390), says:

It has hitherto been understood that the supreme power, that is, the sovereignty of the people of the States, was in its nature divisible, and was, in fact, divided . . . ; that as the States in their highest sovereign character, were competent to surrender the whole sovereignty and form themselves into a consolidated State, so they might surrender a part and retain, as they have done the other part.

Madison was right; such was the idea of the men that framed the Constitution and it must be borne in mind by those that would go back and interpret their words and acts.

Moreover the men of 1787 believed that government and society rested on compact; they did not have in their thinking the conception that the result of individual consent was to leave the individual as independent as before; they believed that a new unity could be made by consent and agreement and that individuals or communities were bound by their consent and legally bound to the extent of their consent or agreement. It is, therefore, somewhat beside the mark—scarcely reasonable, one might say—to insist that, because men did not act with full consciousness of the metaphysics of the nineteenth century, they did not and could not do what they intended to do—form a real national government the power of which could not be altered or finally determined by action on the part of the individual states.

Virginia's Resolutions.—In a preceding paragraph of the article, reference is made to one of the resolutions which Virginia used in adopting the Constitution. Such a resolution contained the thinking of the American Revolution; it was not an announcement of the right to secede; it was a proclamation that was as old as John Milton or the English revolution of the seventeenth century; it was the embodiment of the philosophy of the seventeenth century and of the American philosophy of the eighteenth; governments do not have innate, divine and inherent power; they are created by the people and those that create governments can take away power as well as grant it. Assertions of this kind had no particular reference to the make-up of a federal government,

nor were they made with any intention of reserving the right of state secession (*see* REVOLUTION, AMERICAN, SIGNIFICANCE OF).

Virginia and Kentucky Resolutions.—The argument for state sovereignty cannot receive sustenance from the Virginia and Kentucky Resolutions (*see*); for here plainly enough was the idea of divided sovereignty and the right of a state to judge of the extent of the power granted and to defend its reserved rights. The doctrine of the resolutions may not be orthodox; but it is based on a mode of thinking quite different from Calhoun's. In fact, though the full material is difficult to get and to interpret, it appears only reasonable to say that in all probability the states before 1830, in the various disputes that arose concerning their rights, with possibly one or two exceptions, did not intend to assert more than that the United States was not a "consolidated government" and that the individual states, or the states in concert, having retained a portion of sovereignty, had a *right to judge* of the extent of the power they had not surrendered—a position, it should be noticed, quite different from that of asserting that each state remained wholly sovereign and granted power to an agent.

Metaphysical Basis.—It is evident that to a remarkable extent the argument for state sovereignty rests on metaphysical supposition. There are in fact a series of propositions on which it rests: (1) sovereignty is in its nature indivisible; (2) unity cannot be made by the consent or agreement of isolated states or beings; (3) law is the result of the will of a preëxisting superior being; (4) the people of the United States did not exist as a single entity before 1788. The last of these we might call the statement of an historical fact or what the defender of state sovereignty believed to be an historical fact; the first three are pure metaphysics. Now one might deny the metaphysics and accept the history, or he might deny the history and accept the metaphysics. If he followed either of these two alternatives, he would probably deny the existence of state sovereignty after the establishment of the Constitution; certainly he would not follow the route commonly taken by the defenders of the doctrine. Moreover, if we insist on applying metaphysics to the problem, it appears necessary to be sufficiently metaphysical in the interpretation of history to see that there was, in 1788, a reality, a real entity, superior to the states, and that, though the people were not fused, geographically speaking, into one mass in adopting the Constitution, they formed *in fact* a body declaring their will in the Constitution. On the other hand, if we eschew metaphysics, there would seem to be good reason for thinking that the people of the states by this solemn enactment irrevocably bound themselves and that, by their action, they constituted a national government. In

other words, untrammelled by metaphysical postulates, we find no difficulty in believing that the fathers did what there appears good reason for thinking they wished and intended to do, *viz.*, establish a real government, form an indissoluble union, and take power from the states. Loosed from the trammels of a particular branch of metaphysics we have no difficulty in seeing that the states, by entering the Union and adopting the Constitution, lost their unalloyed sovereignty and independence, if they had sovereignty to lose.

Two Lines of Attack.—The argument against state sovereignty as it was stated over and over again from the time of Webster and Marshall through the Civil War, generally followed one of two lines which are somewhat similar to those suggested in the preceding paragraph. On the one hand, it was denied that the states were in essence sovereignties before the adoption of the Constitution; the states were always subject in part to some other authority, or were in a union whose real nature precluded the idea that they were actually self-determining; the union was older than the states. On the other hand, it was declared that the independence of the states before the Constitution, if they were independent, has no bearing on what they were afterward; the Constitution settles that matter and it is plainly a constitution; the Constitution declares itself a supreme law and it is folly to say that when the states adopted the instrument they were not bound by its terms and its plain expressions.

See FEDERAL CONVENTION; NULLIFICATION CONTROVERSY; SECESSION CONTROVERSY; SOVEREIGNTY, THEORY OF; UNITED STATES AS A FEDERAL STATE; VIRGINIA AND KENTUCKY RESOLUTIONS.

References: J. C. Calhoun, *Works* (1851), I, VI; A. H. Stephens, *Constitutional View of the War between the States* (1868), I; C. E. Merriam, *History of American Political Theories* (1903), ch. vii; C. W. Loring, *Nullification, Secession* (1893); J. C. Hurd, *The Theory of our National Existence* (1881); J. Taylor, *Construction Construed* (1820), *New Views of the Constitution* (1823); D. Webster, *Works* (1851), III, 270 *et seq.*; A. Jackson, "Proclamation" in J. D. Richardson, *Messages and Papers of the Presidents* (1896), II, 640-658; R. Foster, *Commentaries* (1895), I, 61-298; J. Davis, *Rise and Fall of the Confederate Government* (1881), I; A. C. McLaughlin, "Social Compact and Constitutional Construction" in *Am. Hist. Review* (1900), V, 467-490, *The Courts, the Constitution and Parties* (1912), ch. iv. ANDREW C. McLAUGHLIN.

STATE STATUTES. See STATUTES, STATE.

STATE SUPPORT OF PRIVATE INSTITUTIONS. See SUBSIDIES TO PRIVATE INSTITUTIONS.

STATE, THEORY OF

Definition.—Definitions of the state are necessarily conditioned largely by the point of view from which the state is considered. Thus some writers lay special emphasis upon its spiritual or moral nature, others upon its character as a juristic or legal personality. Again, it may be viewed either as a concept of international law or as a concept of constitutional law. The state as conceived by the international lawyer is not necessarily identical with the state as viewed by the political scientist. For the purposes of this discussion, we may define a state as a community of persons, more or less numerous, permanently occupying a definite portion of territory, independent of external control and possessing an organized government to which the great body of inhabitants render habitual obedience.

Distinctions.—The state must be distinguished from the government, which is merely the organized machinery or magisterial agency through which the will of the state is formulated and carried out. The state is rather an abstract conception while the government is a concrete organization or contrivance through which the state manifests itself. Governments do not possess the attribute of sovereignty, that is, original unlimited authority, but only derivative power, such as they may receive from the state, which alone is the source and repository of sovereignty. The two are no more identical than the board of directors of a corporation is identical with the corporation itself. States possess the quality of permanence and continuity; they are what the Germans call *eine dauernde Einrichtung*. Governments, on the contrary, are not immortal; they are constantly undergoing change, as a result of revolution or alteration through legal processes, and such changes have no effect upon the existence or continuity of the state life as such. France, for example, within the space of a century changed its form of government from a monarchy to a republic, then to an empire, again to a monarchy, again to a republic, then to a monarchy, and finally to a republic, but the continuity of the state as such remained unaffected through all the successive political transformations.

Again the state must be distinguished from the nation (*see*), a term popularly employed by many writers to describe the collective action of organized society. The two terms are, however, by no means synonymous or identical. Strictly speaking, the state is a legal or political concept while the nation, as the etymological derivation of the terms suggests (*nasci, natio*) is an ethnic concept. A nation is not necessarily a state, that is, it is not a portion of society politically organized but

(in its perfect form) it is an aggregate of persons speaking the same language, having a common racial origin or united by other bonds, and who, according to some writers, possess a common literature, common customs, a common consciousness of rights and wrongs and who inhabit a territory constituting a geographic unity, that is, a territory definitely separated from the rest of the world by natural geographic boundaries. Some writers, however, do not consider community of descent or even identity of race as an essential mark of a nation, but regard community of speech and geographic unity as the essential elements. Gumplowicz, a distinguished Austrian publicist, considers community of civilization (*Kulturgemeinschaft*) and identity of language, rather than community of ethnic origin to be the test of a nation (*Allgemeine Staatsrecht*, 111). States and nations rarely coincide territorially, though the tendency during the last century has been more and more in the direction of identification, that is, toward the organization of states with boundaries embracing, as far as possible, populations having the same ethnic origin and speaking the same language. Wherever geographic and ethnic lines coincide, there is, naturally, a strong impulse to political organization within these limits, that is, the nation tends to organize itself into a state. Some writers, indeed, go to the length of contending that considerations of political solidarity and stability require that political, ethnic and geographical lines should coincide, that is, there should be a state for every nation. Those who contend for this principle argue that "non-national" states possess greater elements of strength and are freer from the danger of disruption than "poly-national" states, or those composed of several nationalities. Austria and Hungary are frequently cited as examples of states in which ethnic heterogeneity is a constant source of weakness. Nevertheless, it may be shown that lack of ethnic homogeneity is not necessarily an evil, since as Bluntsehli remarks, the presence of foreign elements may be a means of "keeping open connection with the civilization of other states" and may serve as an "alloy to give strength and currency to the nobler metal" (Garner, *Introduction to Political Science*, 55-56).

In countries having the federal system of government, the term state has a dual application; that is, it is employed to denote both the federation as a whole and the constituent communities of which it is composed (*see* FEDERAL STATE). But strictly speaking, the latter divisions are not states though they may retain a good deal of the dignity, the historical

traditions and even some of the powers of sovereign states. Lacking the essential element of sovereignty, they are, for the political scientist, at least, merely dependencies of the state of which they are a part, differing from the administrative circumscriptions of a unitary state only in their larger autonomy and powers of local self-government (see STATE GOVERNMENT, CHARACTERISTICS OF), nevertheless, some writers hold a contrary view. They maintain that the test of state existence is not sovereignty but the power to command and enforce obedience, and since the component members of a federal union possess this power they may properly be treated as states (Laband, *Staatsrecht des deutschen Reiches*, I, 75; Jellinek, *Lehre von den Staatenverbindungen*, 298, 307). But if a non-sovereign community may be rightfully treated as a state, the distinction between states and mere administrative districts or local organizations disappears, since the latter also possess the power to command and compel obedience (Burgess, *Political Science Quart.*, III, 128).

Forms of Manifestation.—The state manifests itself under different forms and reveals various qualities and attributes according to the point of view from which it is considered. Viewed subjectively, it appears as a condition or status, as the etymology of the word implies. Again, it reveals itself as a dynamic institution animated with life and action. Viewed from the sociological standpoint, it is a social phenomenon for the realization of social interests. Many German writers dwell upon its juristic character—its character as a juridical personality, a corporation of public law (*Körperschaft des öffentlichen Rechts*). Others distinguish between its character as a public corporation and its character as *fiscus*, that is, as a concept of private law, in which capacity it acquires, owns and administers property, brings suits in the courts, and enters into contractual relations very much as a private individual or corporation does. Still others distinguish between the concept of the state (*Staatsbegriff*) and the idea of the state (*Staatsidee*). The state as a concept is the state viewed as a particular phenomenon; the picture of an actual state as it exists or has existed in history; the idea of a state is that of the state abstractly considered, no particular state but the state in general, the state in the splendor of imaginary perfection, not yet realized but towards which mankind is ever striving (Bluntschli, *Allgemeine Staatslehre*).

Constituent Elements.—The essential constituent elements which enter into a state are: (1) people; (2) land; (3) government.

Concerning the number of persons necessary to form the basis of state organization, there is no law or rule of practice and, as a matter of fact, the populations of the existing states of the world vary in amount quite as widely as their geographical areas. Some writers

have essayed to lay down certain general principles concerning the number of persons necessary to give the state character to a community and a few like Aristotle have even gone so far as to indicate with more or less precision the maximum and minimum limits. Aristotle thought the population should be sufficiently large to be self-sufficing and yet not too numerous to be well governed (*Politics*, Jowett, Ed., 214–215). Rousseau was of the opinion that there should be a certain proportion between the amount of population and the extent of territory. The extent of territory, he said, should be sufficient to support the population and the number of inhabitants should not be so great as to reduce the share of each person in the determination of the sovereign power to an insignificant minimum (*Contrat Social*, Bk. II, ch. x; Bk. III, ch. i). Obviously, however, any but the most general rule must be arbitrary and valueless. About all that can be said is, that the population should be sufficiently numerous to support a state organization and if the other elements are present this need not be considerable.

In the land occupied by the inhabitants, we have the physical basis of the state. A community cannot well become organized into a state until its members have acquired a fixed abode, that is, until they have attached themselves to a definite portion of territory. Migratory bands and wandering hordes may obey their leaders and indeed possess the rudimentary elements of state organization, but until they become settled upon a definite area of land, they are not states, though they may be communities in the process of becoming states. Some writers, however, do not consider territory as an indispensable constituent in the make up of the state. Thus Hall (*International Law*, 20) says, "Abstractly, there is no reason why even a wandering tribe should not feel itself bound as stringently as a settled community by definite rules of conduct toward other communities," though he admits that "circumstances of modern civilization which associate sovereignty with land make the possession of a fixed territory a practical necessity." So Holland defines a state as a "numerous assemblage of persons generally occupying a certain territory," thus conceiving the possibility of a non-territorial state.

Regarding the extent of territory necessary to constitute the home of a state, there is no rule or practice any more than there is in regard to the requisite amount of population. As a matter of fact, states have varied in area all the way from the petty city commonwealths of antiquity to the vast empires of the present day. Rousseau in his *Contrat Social* attempted to lay down certain general principles regarding the size of states as he did in regard to their population. Nature, he said, has fixed a limit to the territory of a state: it ought not to be too vast to be well governed nor

too small to maintain its population. John Stuart Mill likewise pointed out that there is a limit to the extent of country which can be advantageously governed or whose government can be "advantageously superintended from a single center" (*Considerations on Representative Government*, ch. xvii; see also De Tocqueville, *Democracy in America*, I, 171). There is a difference of opinion among writers as to whether vastness of territorial domain is a source of strength or weakness to a state, especially when portions of it are non-contiguous, remotely situated and inhabited by alien races, but in practice it has been the ambition of most modern states to increase their territorial areas whenever the opportunity was afforded. It is undoubtedly true, as Bluntschli has remarked, that the power of a state is not always to be measured by its mere extent of territory as some of the ancient city states clearly showed.

A third essential element of the state is the existence of an organized agency through which the will of the state may be formulated and carried out. This agency or magistracy we call government. A mere aggregate of people, however numerous, does not constitute a state until they have effected a political organization and established a civil authority capable of laying down commands and compelling obedience. The body politic is thus the social body plus the political organization. There is no exact principle of political science by which the existence of this test may be determined. The political machinery of primitive states, of course, is necessarily simple and rudimentary but so long as there is an authority legally constituted, generally recognized and capable of enforcing its will upon those subject to its jurisdiction, the essential tests of state life are fully present.

Origin.—The facts regarding the establishment of new states by men already subject to political authority are a matter of authentic historical record but the circumstances under which primitive men unaccustomed to political life first developed a political consciousness, and the procedure by which they established over themselves civil authority, are facts upon which authentic history throws little light. Several theories regarding the origin of state life, however, have been advanced by political writers and these may be briefly stated. The oldest is that which attributed the institution of the state mediately or immediately to God or some other superhuman power. Throughout the middle ages this view was powerfully supported by theologians, who were also the leading political writers of the time. In the sixteenth century this doctrine was taught by Bossuet, the Protestant monarchomachs, the Spanish Jesuits, the noted Filmer in his "Patriarchia" and many others, their arguments being for the most part drawn from the Holy Scriptures. They taught that

not only was the civil power established by an ordinance of God, but that magistrates were divinely appointed and that they were accountable to no authority but God, who alone was the Supreme Law Giver. Invented largely to defend the claims of certain rulers to govern their people without accountability to any authority except such as they might choose to render to God, the theory received its death blow at the hands of Hobbes, Grotius and Locke and no longer has any supporters (see DIVINE RIGHT OF KINGS; MONARCHY; THEOCRACY).

Compact Theory.—The compact theory is also old (see POLITICAL THEORIES, ANCIENT AND MEDIEVAL). It was advocated with special force during the seventeenth and eighteenth centuries and powerfully influenced the political thought of Europe during these centuries. It ascribed the institution of political authority to compact or convention, that is, to deliberate and voluntary agreement of the people among themselves. As a theory of state origin (it was also employed to describe the procedure by which a people already politically organized chose their magistrates as well as the relation which existed between them), it assumed the existence of a presocial or precivil condition of mankind who were said to be in a state of nature, unrestrained by the prescriptions of any positive human law, being subject only to those of the moral law, the law of nature, and the instincts of reason. This state of nature, as Hobbes conceived it, was a condition of perpetual strife among the members of the community, a war of all against all (*bellum omnium contra omnes*). The transition from the natural to the civil state took place, we are told, through the process of compact or covenant, that is, each person agreed to surrender to some magistrate or assembly his right to govern himself upon condition that every other man should do likewise, and each was to receive in return the assurance of protection and security. This was in substance the explanation given by Hooker, Hobbes, Locke, Rousseau, and Blackstone.

The social compact (see) theory as an explanation of the origin of the state was largely undermined during the nineteenth century by such writers as Sir Henry Maine, Thomas Hill Green, J. C. Bluntschli, D. G. Ritchie and others. First of all, the theory lacks historical evidence to support it. The few instances cited of states said to have originated in compact were, in fact, not examples of new commonwealths founded by men in a state of nature, but were merely the transplanting to new lands of political institutions, by men already living under state organization. Such, for example, was the celebrated Mayflower Compact (see), cited by some writers as an instance of the founding of a new state by covenant. In the second place, the theory must be rejected upon grounds of philosophy

and reason. Political writers now generally agree that men in a state of nature are incapable of founding a state by mere convention. The theory assumes the existence of that which men in a state of nature manifestly do not possess, namely, an already highly developed political consciousness. The contractual element manifestly belongs to a later stage of social development. It may play an important part in creating or changing existing forms of government or in extending the organization of the state to territories not already under political organization, but that is a different thing from the original institution of the state by persons unaccustomed to political authority.

Patriarchal Theory.—A third explanation of how the state was originally instituted is found in the so called "patriarchal" theory advocated by Sir Henry Maine in his *Ancient Law* and in his *Early History of Institutions*. This theory represents the state as merely an expansion of the family under the authority of the eldest male descendant. The elementary group, says Maine, is the family connected by common subjection to the highest male descendant. The aggregation of families forms the *gens* or house. The aggregation of houses makes the tribe. The aggregation of tribes constitutes the commonwealth. This theory has in recent years been exploded by McLennan in his *Patriarchal Theory*, by Morgan in his *Ancient Society*, by Edward Jenks in his *History of Politics*, and others. The theory, observes McLennan, is so simple and natural that it used to be accepted as palpably true like the fact of the sun moving daily around the earth. No one thought of proving it and but few of seriously doubting it. Like the compact theory, it lacks historical proof to substantiate it. Recent historical and anthropological research has clearly shown that the family related only through males and ruled over by a patriarch was not universal in ancient society, nor even among modern primitive peoples. The theory of McLennan and Jenks is that the genesis of civil society is found back of the patriarchal family and belongs to the stage of polyandry and the matriarchal family. The earliest social group, they maintain, was not the patriarchal family but a loosely connected group known as a pack or horde in which promiscuity of sexual relations prevailed and in which kinship was traced not through the father but through females. Examples of such societies are found among the primitive races of Australia, the Malay Archipelago, and to some extent among the early Celtic tribes of England and Scotland. Most writers, however, reject both the patriarchal and matriarchal theories. The idea that the state developed out of the family in any form or that there is any connection between the two is not supported either by historical or sociological evidence.

The family and the state are totally different in essence, organization, functions and purposes, and the view that one is a mere expansion or development of the other is unsubstantiated by satisfactory evidence.

Historical Theory.—The theory of state origin now generally accepted is that which regards the state not as a formal artificial creation but as a product of history, that is, the outgrowth of long and gradual development of human society from rudimentary forms. Political consciousness, at first wholly lacking, appeared in the minds of a few of the natural leaders and slowly spread by degrees among the mass of the population. In short, the state first existed in idea only, then as the common consciousness developed, it became clothed with the external forms of organization, that is, it acquired an objective existence in institutions and laws. Historically, this may be considered the starting point for the state but for political philosophy, it is but a state in the transition from the natural to the civil state, it is but the act by which the state passes from its subjective to its objective form and from which it goes on developing and expanding as political consciousness spreads among the people.

See GOVERNMENT, THEORY OF; NATION; POLITICAL THEORIES; SOCIAL COMPACT THEORY; SOVEREIGNTY, THEORY OF.

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JAMES W. GARNER.

STATE UNIVERSITIES. In this article all state institutions will be considered which are called universities, whatever their grade or character, excluding the state agricultural colleges which are attached to fifteen state universities (see EDUCATION, AGRICULTURAL).

Colonial Public Colleges.—Higher education in the United States began in the eastern sec-

tion of the country, where the following nine colleges were founded before the Revolution: Harvard (1636); William and Mary (1692); Yale (1701); Princeton (1746); Pennsylvania (1749); Columbia (1754); Brown (1764); Rutgers (1766); and Dartmouth (1769). Some of these in early days were in part publicly supported; to Harvard College the colony of Massachusetts contributed regularly for fifty years, and at intervals down to the present time William and Mary has been nurtured by Virginia. To Columbia, when founded as King's College, the colony contributed support, and the trustees were mainly *ex officio* colonial officials.

Early State Universities.—In the southeastern part of the United States soon after the Revolution appeared a group of state universities, which have retained their status.

(1) The University of North Carolina was chartered in 1789; the first session was held in 1795. It was governed by self-perpetuating trustees, and the funds were derived from private sources, but the state was their custodian and made certain special grants. In 1876 trustees appointed by the state came into power; and in 1881 the state began direct appropriations.

(2) The University of Georgia was chartered in 1784 and formally opened in 1801, receiving 40,000 acres of land from the state.

(3) The University of Virginia, chartered in 1819 and opened to students in 1825 was the creation of Thomas Jefferson, its first rector. The controlling visitors were appointed by the governor of the state. From the outset the state made an annual appropriation beginning with \$15,000; and this fund was supplemented by grants for constructional work.

First Land Grant Universities.—The second great impulse to state university education was the land grants under the Ordinance of 1787 for educational purposes, including higher institutions of learning. Under this ordinance the states as organized each received land for its state university. The amount of this grant varied from less than one township, in the case of Indiana, to more than twenty townships, in the case of Ohio State University. Ohio also made gifts of land to the Ohio University at Athens and Miami University at Oxford, which have led to money grants to those institutions in recent years.

With the federal land grants as a basis, as the states west of the Appalachian Mountains were admitted to the Union, provision was made, usually in the constitution, for the foundation of a university. Money from the sale of lands was almost the sole source of income of the newly founded universities; hence, the land was sold rapidly and at low prices. In the few states where the lands, or a part of them, were retained, they are now the basis of important endowments.

Of this group the University of Michigan

was the first to gain large influence. This institution founded in 1837, began work in 1841. With the exception of \$100,000 given by the state for buildings, the university was supported from the land grants until 1867, at which time an annual appropriation began. Similarly the University of Wisconsin, chartered in 1848 and beginning work in 1851, received its first grant from the state for buildings in 1871, and its first annual appropriation for support in 1873.

It was the theory in early days that the land grants given by the government would be sufficient to support the state universities; and public financial responsibility was assumed only after the universities had begun to perform service to the states.

Definition.—By 1908, the state universities had sufficiently developed so that the Association of American Universities representing them, formulated definite criteria as to what should constitute a university. These included: (1) a college resting on a four year high school course and offering two years of general or liberal work, and two years of work of a university type; (2) professional schools, such as law, medicine, engineering, agriculture, at least one of which shall be based upon the completion of two years of college work; (3) a graduate school properly equipped for research work.

Purposes.—The purpose of the state university, founded first in the southern states and later extending to the middle and far west, is to provide opportunities for the same kinds of work that the private foundations of the east were performing; indeed the development of the two classes of institutions has been in a large measure parallel. The fundamental purposes of each are: (1) to give a liberal education to the youth of the country; (2) to give training for various professions; (3) to give advanced work to those expecting to become scholars; and (4) to increase the sum of human knowledge.

In the first of these purposes the state university patterned after the endowed institution. In the second, the state university followed the endowed institution so far as medicine and law are concerned, but was a leader in the development of science and especially the applied sciences of engineering and agriculture; also in applying the group of modern humanities, political economy, political science, and history in the professional schools or colleges of commerce. In the third and fourth lines of work, those of the graduate school and advancement of knowledge, except in applied science, the endowed institutions have been and still are in the leading position; although the development of graduate schools in the state universities has been very rapid in recent years.

Statistics.—Some facts as to the foundation, location and conditions of the state univer-

TABLE A—STATE UNIVERSITIES, 1910—11

Name of University	Date of Admission of State to Union	Location	Date of Charter	Date of Opening	Total Teaching Force	Total Student Enrollment *	Approximate Value of Libraries	Value of Scientific Apparatus, Machinery and Furniture	Value of Live-stock	Value of Grounds, Including Farm	Value of Buildings	Endowment Funds	Total Working Income	Appropriations for Building and Permanent Improvement	United States Land Grant (Acres)	State Land Grant (Acres)	
Alabama	1819	Tuscaloosa	1820	1831	64	565	60,000	137,000	---	---	---	447,015	202,458	50,000	92,160	---	
Arizona	1912	Tucson	1885	1891	32	195	33,000	70,630	1,545	33,000	207,310	10,560	139,547	11,500	35,000	---	
Arkansas	1836	Fayetteville	1871	1872	131	868	41,000	165,000	5,000	25,000	350,000	---	243,536	0	150,000	---	
California	1850	Berkeley	1868	1868	421	4,314	750,000	1,933,747	2	12,078,739	14,725,576	4,538,890	1,672,716	44,818	150,000	---	
Colorado	1876	Boulder	1861	1877	168	1,284	75,000	152,000	500	180,000	700,000	60,000	284,000	45,000	46,080	---	
Florida	1845	Gainesville	1905	1905	34	241	14,000	65,000	4,000	15,000	220,000	219,650	154,946	62,500	120,000	92,160	
Georgia	Orig.	Athens	1785	1801	54	537	42,000	89,200	10,010	475,000	500,000	370,202	189,480	---	---	---	
Idaho	1890	Moscow	1889	1892	61	517	30,125	104,688	8,685	57,775	416,700	772,313	239,393	51,000	286,000	---	
Illinois	1818	Urbana	1867	1868	615	4,896	380,000	1,399,283	22,152	410,000	2,093,500	647,342	1,560,040	431,000	480,000	---	
Indiana	1816	Bloomington	1820	1824	263	2,122	88,000	21,250	---	36,000	644,900	744,000	389,378	112,111	19,040	---	
Iowa	1846	Iowa City	1817	1855	193	2,055	149,428	658,044	---	870,330	1,450,992	373,314	649,328	45,000	45,929	---	
Kansas	1861	Lawrence	1864	1866	139	2,178	148,000	175,000	200	100,000	1,200,000	151,000	602,889	175,144	46,080	---	
Kentucky	1792	Lexington	1805	1866	82	745	15,916	25,000	---	275,000	250,000	144,075	172,386	---	230,000	---	
Louisiana	1812	Baton Rouge	1859	1860	80	655	44,000	113,350	400	151,040	525,278	318,313	215,458	---	276,080	---	
Maine	1820	Orono	1865	1868	98	858	57,387	101,922	6,639	11,000	488,260	218,300	266,920	---	210,000	---	
Michigan	1837	Ann Arbor	1817	1841	311	4,751	314,700	1,341,325	0	404,015	2,406,950	883,449	1,637,624	---	46,080	---	
Minnesota	1858	Minneapolis	1868	1869	296	5,622	475,000	700,000	40,000	1,834,000	3,021,000	1,448,799	1,806,800	416,000	186,004	17,237	
Mississippi	1817	Oxford	1844	1848	40	480	25,000	48,000	650	75,000	400,000	---	97,500	---	46,080	---	
Missouri	1820	Columbia	1839	1841	173	2,741	172,628	408,918	25,406	534,237	1,225,148	1,264,829	853,391	174,700	353,040	---	
Montana	1889	Missoula	1893	1895	32	190	50,000	60,000	200	50,000	200,000	75,015	---	---	46,080	---	
Nebraska	1867	Lincoln	1869	1871	333	2,839	176,000	197,650	31,800	550,000	975,000	739,514	728,442	60,000	135,000	---	
Nevada	1864	Reno	1873	1885	42	311	43,046	100,167	8,225	83,892	422,676	196,500	276,807	55,000	90,000	---	
New Mexico	1912	Albuquerque	1889	1892	23	117	12,500	15,000	---	10,000	90,000	206,237	162,453	4,800	311,000	0	
North Carolina	Orig.	Chapel Hill	1789	1795	56	788	100,000	75,000	---	70,000	553,000	206,237	48,800	15,000	126,080	---	
North Dakota	1889	Grand Forks	1883	1884	65	490	55,000	180,000	---	118,000	490,000	1,680,000	290,224	58,817	46,080	---	
Ohio	1803	Athens	1804	1809	72	811	40,000	146,000	---	480,813	548,000	---	195,994	28,839	46,080	---	
Ohio State	1803	Columbus	1870	1873	267	2,876	278,318	662,347	20,000	1,540,000	1,733,000	393,319	910,158	171,346	629,929	---	
Ohio (Miami)	1803	Oxford	1809	1824	30	353	50,000	149,660	---	50,000	555,000	108,000	197,571	16,252	22,763	---	
Oklahoma	1908	Norman	1892	1893	92	707	30,460	70,000	---	75,000	307,500	---	277,744	125,000	250,000	---	
Oregon	1859	Eugene	1872	1876	120	920	60,000	129,152	---	200,000	293,000	55,000	141,489	---	46,080	---	
South Carolina	Orig.	Columbia	1805	---	34	416	100,000	150,000	---	275,000	450,000	---	110,725	26,194	---	---	
South Dakota	1889	Vermillion	1883	1883	54	425	37,500	120,000	50,000	285,475	350,000	---	139,810	32,000	86,000	---	
Tennessee	1796	Knoxville	1794	1794	136	830	23,000	191,028	7,383	285,475	360,238	409,000	268,129	---	100,000	---	
Texas	1845	Austin	1881	1883	107	1,939	175,000	315,000	---	147,000	1,181,000	2,080,000	487,512	2,350	0	2,000,000	
Utah	1896	Salt Lake City	1850	1850	64	858	42,000	153,100	10,000	76,000	940,000	999,360	418,339	---	256,080	---	
Vermont	1791	Burlington	1791	1800	93	514	125,000	90,000	---	600,000	1,209,000	1,583,792	246,770	---	119,920	27,964	
Virginia	Orig.	Charlottesville	1819	1825	74	725	100,000	115,500	800	600,000	1,209,000	1,583,792	246,770	---	46,080	100,000	
Washington	1899	Seattle	1862	1861	103	2,112	99,534	319,138	750	1,059,000	1,086,441	3,060,000	382,228	22,849	150,000	0	
West Virginia	1863	Morgantown	1867	1867	66	544	35,000	90,000	5,000	250,000	625,000	115,104	249,241	---	331,086	---	
Wisconsin	1848	Madison	1851	1851	486	4,099	387,022	715,919	30,508	1,804,549	2,722,074	659,319	1,789,470	214,135	231,086	---	
Wyoming	1889	Laramie	1886	1887	45	242	60,000	159,000	9,000	110,000	300,000	31,500	161,672	28,493	136,000	---	
Totals	---	---	---	---	5,646	58,760	5,004,564	11,942,418	298,853	15,534,425	36,765,903	25,818,706	19,133,979	2,482,978	5,956,642	2,237,361	---

* Excluding summer session and short course students. ¹ Estimated valuation. ² In cluded in estimated valuation of grounds, buildings and equipment. ³ No charter.

STATE UNIVERSITIES

sities make clear how rapid has been the growth of these institutions during the first decade of the present century. On an average the teaching force nearly doubled: the students increased by 56.52 per cent; the value of the physical properties and the total working income increased more than threefold.

Table A shows how widely the state universities vary among themselves in their strength. The totals presented are impressive; for the year 1910-11 an instructional force of 5,646, a student enrollment of 58,760, property valued at \$69,546,163, and a working income of \$19,133,979.

Table B presents comparative statistics of the five largest state universities for the years 1900-1901 and 1910-1911.

Characteristics.—Although the development of the state universities has, in many respects, been closely analogous to that of the endowed institutions, certain differentiating tendencies early appeared in the former because the state universities feel special obligations toward the states which support them; whereas most of the endowed institutions feel no exceptional obligation to the commonwealths in which they are located. Some of the special features are as follows:

(1) The state universities are mainly supported by direct taxation; definite sums for a biennium; a definite annual amount continuing without action of the legislature; a definite tax levy; or a combination of these. The tax levy appeared in the first legislative appro-

TABLE B. GROWTH OF THE FIVE LARGEST STATE UNIVERSITIES

Institution	Year	Teaching Force	Total Attendance	Value of Libraries, Scientific Apparatus, Machinery and Furniture	Buildings and Grounds	Total Working Income
University of California	1900-01	188 ²	3,357	560,000	1,816,600	472,304
	1910-11	421	4,314	2,683,747 ¹	6,804,375 ¹	1,672,716
University of Illinois	1900-01	242	2,505	385,803	1,000,000	457,584
	1910-11	615	4,896	1,779,283	2,503,500	1,560,040
University of Michigan	1900-01	233	3,482	1,035,000	1,400,000	576,650
	1910-11	311	4,751	1,656,025	2,810,965	1,637,624
University of Minnesota	1900-01	275	3,413	290,000	1,420,000	421,871
	1910-11	296	5,022	1,175,000	4,855,000	1,806,800
University of Wisconsin	1900-01	183	2,393	477,396	1,443,807	539,656
	1910-11	486	4,099	1,102,941	4,526,623	1,789,470
Totals	1900-01	1,121	15,130	2,748,199	7,080,407	2,468,065
	1910-11	2,129	23,682	8,396,996	21,500,463	8,466,650

¹ Estimate.

² Not including assistants.

Students.—It is frequently supposed that the universities bearing the names of states are necessarily local; but for this supposition there is no foundation. The number of extra-state students compares well with that of Harvard, Yale, Columbia and Chicago, which vary from 44 per cent to 65 per cent. The smaller state universities, like the smaller endowed, are largely local, but the stronger state universities have become national and to some extent international, as is shown by the rapid increase of percentage of non-resident students and these percentages are steadily increasing. For some of the institutions the distributions for the year 1910-11 are as follows:

priation made for the University of Michigan. In 1911-1912 a tax levy for support or for building, varying from a small fraction of a mill to one mill, was provided by fourteen states. Under this system the income of an institution increases as the assessed valuation of the state grows.

(2) The state universities frankly recognize that they are a part of the public educational system, and the graduates of public approved high schools are admitted to the universities without examination in practically all state universities. Some elements of this plan have been accepted by important endowed institutions, notably Chicago.

State Universities	Non-resident Students		Foreign Students	
	Number	Percentage	Number	Percentage
California	448	9.07	93	1.87
Illinois	902	19.69	148	3.23
Michigan	2,416	44.90	148	2.75
Minnesota	305	5.30	7	.12
Wisconsin	1,509	27.24	110	1.98

(3) The state universities, with the exception of a few southern institutions, are coeducational, not in consequence of a theoretical belief, but because women were demanding equal opportunities with men for higher education. As there were not sufficient funds to found separate women's colleges, coeducation was gradually adopted. At the present time there are hundreds of women in each of the larger state universities.

(4) The state universities have undertaken direct services to the state, such as investigations directed to the solution of local problems along many lines; the service of the staff as scientific advisers; the carrying of knowledge direct to the people. The state university aims to become the instrument of the state in its upbuilding, material, intellectual, and spiritual, one expression of this ideal being the university extension (*see*). In 1911-12, for example, the University of Wisconsin appropriated \$160,000 for extension work of all kinds, in addition to the fees received from students.

Although the achievements of the state university already are great, their recent improvement and expansion give promise of potentialities far beyond present achievements. These institutions, mainly supported through taxation imposed by a democracy upon itself, are for the sons and daughters of the state, poor and rich alike, and without regard to sex. Until state universities had developed, the advantages of educational institutions of the highest rank had been mainly restricted to the well to do, who in fees contribute in considerable measure to the support of the university. In the state university tuition for residents of the state was abolished.

It is the aim of the state universities to find a way for the boy and girl of parts, whatever may be the condition of birth; to lend a hand to all the people of the state by carrying to them knowledge which they can assimilate to their benefit. Only slowly was elementary education democratized and still more slowly was this true of secondary education; it is the aim of the state university to democratize higher education.

See AGRICULTURE, RELATIONS OF GOVERNMENT TO; COEDUCATION AND COÖRDINATE EDUCATION; EDUCATION, AGRICULTURAL; EDUCATION AS A FUNCTION OF GOVERNMENT; EDUCATION OF WOMEN; EDUCATION, TECHNICAL; EDUCATIONAL LAND GRANTS; LEARNED SOCIETIES; MORRILL GRANT FOR AGRICULTURAL COLLEGES; SCHOOL FUNDS, STATE; SCHOOLS, PUBLIC, PROFESSIONAL; SOCIAL REFORM PROBLEMS; UNIVERSITIES AND COLLEGES, ENDOWED AND PRIVATE; UNIVERSITY EXTENSION.

References: H. S. Pritchett, *Spirit of State Universities* (1910); Carnegie Foundation for the Advancement of Teaching, *Annual Reports*; U. S. Commissioner of Education, *Annual Reports*.
CHARLES R. VAN HISE.

STATES, ADMISSION OF. Origin of the System.—On October 15, 1777, the delegates of Maryland in the Continental Congress introduced the first public formulation of the policy of expanding the Federal Union by providing for the incorporation of new members. The resolution was as follows:

That the United States in Congress assembled shall have the sole and exclusive right and power to ascertain and fix the boundaries of such States as claim to the Mississippi; and lay out the territory so ascertained into separate and independent States, from time to time, as the numbers and circumstances of the people thereof may require.

In November, 1777, when the Articles of Confederation were submitted for adoption, Maryland refused to ratify them unless all the states claiming lands in the West would cede them to the Union. Congress thereupon appealed to the states to make the desired cession, and by its resolution of September 6, 1780, set forth the policy which it would pursue in disposing of the land ceded to the Confederacy. Adopting the principle of the Maryland resolution of October, 1777, it provided that the territory so ceded should be laid out into states which should be republican in form and admitted as members of the Federal Union with the same rights of sovereignty, freedom and independence as were possessed by the other states. When Virginia, the most important of the claimant states, ceded her claims to the Union, she embodied the resolution of Congress in her deed of cession and made its observance a condition upon which her cession rested. The lands therefore in which the first territorial government was erected were received by the United States subject to the condition that states should ultimately be organized therein and admitted to the Union. A similar stipulation was made by North Carolina in her cession of 1790.

It is worthy of note that the Articles of Confederation (*see*), under which Congress acted in receiving Virginia's cession and in pledging the national faith to the erection of new states therein which should ultimately be admitted to the Union, conferred no authority for such action. The Articles provided that Canada might be admitted to the Union, but stated that "No other colony shall be admitted into the same, unless such admission be agreed to by nine States." No provision was made for the formation of new states in territory belonging to the Union, and the action of Congress in attempting to pledge itself to such a disposition of the lands received from Virginia and other states was unauthorized. But the subject is fully covered in the present Constitution in this clause (Art. IV, Sec. iii, ¶ 1):

New States may be admitted by the Congress into this Union; but no new State shall be formed or erected within the jurisdiction of any other State, nor any State be formed by the junction of two or more States, or parts of States, without the consent of the legislatures of the States concerned, as well as of the Congress.

STATES, ADMISSION OF

This clause should be read in connection with another which says, "The United States shall guarantee to every State in this Union a republican form of government" (Art. IV, Sec. iv.). There are no provisions as to whether the new states should be formed from territory already belonging to the United States, or from territory that might thereafter be acquired, or from communities previously independent. States of each description have been admitted and have been the occasion of much controversy.

Procedure.—The Constitution makes no provision concerning the procedure to be followed in the admission of new states, and in dealing with the thirty-five states, which have been added to the original thirteen, Congress has employed several methods of admission. Certain conditions however must always exist. There must be an organized community with a population capable in point of numbers and character of maintaining self-government. Congress is the final judge of the fulfillment of these requirements, and its decisions have often been influenced quite as much by partisan considerations as by the merits of the question. In 1872 Congress enacted that no state should thereafter be admitted unless "having the necessary population to entitle it to at least one representative according to the ratio of representation fixed by this bill." But a Congress cannot bind succeeding Congresses in such a matter, and several states, including Nevada, Wyoming and Idaho, have been admitted in contravention of this act.

In the process of admission the first step is usually a petition to Congress from the community concerned. If the request is favorably regarded, Congress then passes an enabling act. The contents of these acts vary considerably, but they usually describe the boundaries of the new state, authorize its people to frame a state constitution, fix the mode of its formation and adoption, prescribe rules of suffrage in the elections held in connection therewith, set forth such provisions as Congress requires to be inserted in the document and provide for its submission to the Congress or the President for approval. When all the terms of the enabling act have been complied with, the President by proclamation, or Congress by resolution, takes note of the fact and declares the new state admitted to the Union.

Several times it has happened that the people of a territory have organized a state government and applied for admission without waiting for the authorization of Congress. As the essence of the act of admission is the assent of Congress, that assent when given ratifies whatever has been done. While in such cases there is no enabling act, Congress has frequently required alteration in the constitutions adopted as the price of admission. Among the states which were admitted in this way are Arkansas, Michigan, Oregon, Idaho and Wy-

oming. The case of South Dakota was an even more radical departure from the usual procedure. In 1885, before the Territory of Dakota had been divided, the people of that part which is now included in the state of South Dakota elected a constitutional convention which submitted a constitution to the people. The instrument was ratified, a state government organized, and federal Senators and Representatives were elected. Four years later Congress enacted a law requiring the resubmission of this constitution of 1885, and in case of rejection authorizing the election of a constitutional convention. The constitution of 1885 was ratified and under it South Dakota was admitted to the Union.

Several states have been formed from other states, as were Vermont (*see*), Maine and Kentucky. In each instance the state which had formerly exercised jurisdiction over the area concerned gave its consent as required by the Constitution. The case of West Virginia (*see*) presents some peculiarities. When Virginia seceded, the western counties organized a government which was loyal to the Union and was recognized by the federal authorities as the lawful government of the state. It was this government speaking in the name of Virginia that gave its consent to the erection of the western counties into a new state.

Constitutional Problems.—Several important constitutional questions have arisen in connection with the admission of new states. One of the most exciting grew out of the debate on the admission of Louisiana (*see*) the first state to be formed in territory which did not belong to the Union when the Constitution was adopted. The question arose again in a different form when Texas, an independent republic, was annexed to the United States and provision made for its admission to the Union by the same act. There is now general acquiescence in the power of Congress to admit new states without regard to the previous status of the territory from which they are organized.

A question as to which there is still difference of opinion is as to how far Congress may impose conditions upon the admission of new states. The resolution of 1780 pledged Congress to accord to the new states "the same rights of sovereignty, freedom and independence as the other States." This pledge was repeated in the Ordinance of 1787 (*see*). But when Ohio, the first state formed in the Northwest Territory, was admitted, it was required to give a pledge to exempt from taxation for five years all public lands sold by the United States. When Missouri sought admission in 1821, its constitution required its legislature to enact laws "to prevent free negroes and mulattoes from coming to and settling in this State under any pretext whatever." Congress thereupon required a pledge that no

act should be passed depriving citizens of other states of any rights or immunities guaranteed to them by the Federal Constitution. Michigan was admitted on condition that she would surrender to Ohio certain territory in dispute between them, and Nebraska on condition that there should be no denial of the elective franchise or any other right to any person because of race or color, while Utah was required to provide "by ordinance irrevocable without the consent of the United States and the people of said State, that perfect toleration of religious sentiment shall be secured, and that no inhabitant of said State shall ever be molested in person or property on account of his or her mode of religious worship: Provided, that polygamous or plural marriages are forever prohibited."

The restrictions which Congress has sought to impose are of two kinds: those forming ordinary contractual relations affecting property, such as the arrangement regarding the Michigan boundary; and those which restrict the political action of the state, such as the anti-polygamy clause which was required of Utah. There can be no question as to the validity of restrictions of the first class; but if, as provided in the Tenth Amendment, all the powers not conferred upon the Federal Government are reserved to the states, it would seem that Congress could not restrict a state's freedom of action by imposing upon it political conditions which do not weigh equally upon all the states. Utah in order to obtain admission to the Union had to yield to the demand of Congress for an anti-polygamy clause, but when once admitted, her power to amend her constitution is the same as that of the other states.

The restoration of the states of the Southern Confederacy to their constitutional position in the Union, and particularly to representation in Congress, is often spoken of as their readmission to the Union (*see* RECONSTRUCTION). But since the Supreme Court has held that these states were never out of the Union, it cannot correctly be said that they were again admitted. What was done was to allow them to resume their constitutional functions as members of the Union—a right which they had forfeited because of the disloyalty of their inhabitants during the period of secession.

See CONCURRENT POWERS; UNITED STATES AS A FEDERAL STATE.

References: B. P. Poore, *Charters and Constitutions* (1877); F. N. Thorpe, *Federal and State Constitutions* (1909); J. Bryce, *Am. Commonwealth* (4th ed., 1910), I, 589-595; A. B. Hart, *Actual Government* (1908), 116-119; C. A. Beard, *Am. Government and Politics* (1910), 443-445; W. W. Willoughby, *Am. Constitutional System* (1904), ch. xviii; L. B. Evans, *Handbooks of Am. Government* (1901); W. A. Dunning, *Essays*

on the Civil War and Reconstruction (1898), 304-352; J. C. Monnet, "Violation by a State of the Conditions of its Enabling Act" in *Columbian Law Review*, X (1910), 591; *Van Brocklin vs. Tennessee*, 117 U. S. 151; *Escanba Co. vs. Chicago*, 107 U. S. 678; *Huse vs. Glover*, 119 U. S. 543, 546; *Sands vs. Manistee River Improvement Co.*, 123 U. S. 288, 296; *Willamette Iron Bridge Co. vs. Hatch*, 125 U. S. 1, 9; *Boyd vs. Thayer*, 143 U. S. 135, 170; *Ward vs. Race Horse*, 163 U. S. 504, 511; *Bolla vs. Nebraska*, 176 U. S. 83, 89; *Stearn vs. Minnesota*, 179 U. S. 223; *United States vs. United States Express Co.*, 180 *Fed. Rep.* 1006; *Coyle vs. Oklahoma*, 221 U. S. 559.

LAWRENCE B. EVANS.

STATES, ALLIANCES BETWEEN. *See* INTERSTATE LAW AND RELATIONS; STATES, COMPACTS BETWEEN.

STATES AS PARTIES TO SUITS. *Rule of Sovereignty.*—It is a principle of both the civil and the common law that a sovereign state or the sovereign representing such state may call into exercise the judicial functions of its courts by instituting suits therein against any party over whom the court can exercise jurisdiction, and by comity such state or its sovereign in its behalf may be allowed to maintain suits in the courts of other sovereign states; but that on the other hand such state or its sovereign in his public capacity can not be sued in its courts nor in the courts of any other sovereign state. The sovereign state may, as a matter of grace, allow questions of its legal liability to be determined in its courts (*see* COURT OF CLAIMS).

Under the Federal Constitution.—Although it was at one time held that with reference to suits in the federal courts the attribute of sovereignty was denied to the states (*see* CHISHOLM *vs.* GEORGIA) and the Eleventh Amendment was thereupon adopted prohibiting suits in those courts against a state by citizens of another state of the Union or by citizens or subjects of any foreign state, nevertheless when the question arose whether by virtue of the nature of the subject matter citizens of a state could maintain in the federal courts suits against their own states, it was finally decided that the general rule of non-suability of a state had not been abrogated by the Federal Constitution (*see* ELEVENTH AMENDMENT). But the amenability of states to suits in the Supreme Court brought by other states has been maintained (*South Dakota vs. North Carolina*, 192 U. S. 286).

Suits Against Officers or Agents of a State.—It was at one time thought that the exemption of a state from suit applied only to cases in which the state was formally a party to the record and that suits might be maintained in the federal court against the officers or agents of a state although they were acting

under its authority and were exercising its powers (*see* OSBORN *vs.* BANK OF UNITED STATES); but it subsequently became apparent that such a suit might be in effect a suit against a state and thus result in an evasion of the Eleventh Amendment, and the conclusion was reached that if the practical result of a suit against officers or agents of a state is to restrict it in the exercise of its lawful powers then it can not be maintained. On the other hand, it is held that if, in suits against persons who claim to act under state authority, the authority itself on which they rely is not valid, then it furnishes to them no defense.

Suits by States Representing the Public.—It seems that a state government as a representative of the people of the state may maintain a suit in a federal court for the protection of their general interests, as, for instance, to prevent the depletion of the water supply of the state or the contamination of its general water supply by an adjoining state.

See COHENS *vs.* VIRGINIA: COURTS, FEDERAL.

References: W. W. Willoughby, *Constitutional Law* (1910), chs. liii, liv; Tindal *vs.* Wesley, 167 U. S. 204; Fitts *vs.* McGhee, 172 U. S. 516; Missouri *vs.* Illinois, 180 U. S. 208; Kansas *vs.* Colorado, 206 U. S. 46.

EMLIN MCCLAIN.

STATE'S ATTORNEY. See ATTORNEY GENERAL, STATE.

STATES, CLASSIFICATION OF. The State.—A state, in the sense of modern political science, includes a body of people, inhabiting a given territory, organized for common purposes, independent of external control and supreme in the enactment and enforcement of law within the state territory.

Whatever may have been the status of nomadic tribes in the past, a state today cannot be recognized as such without a definite territory to which no other state has title. The boundaries of this territory should be definitely marked, not a few international collisions having resulted from certain differing boundary claims. Every land boundary of the United States for instance has been the subject of long diplomatic discussion with abutting states and finally has been determined by a series of treaties. Further, the course of history has witnessed repeated evidences of ambition for the extension of the state territory, especially on the part of nations with crowded populations.

The organization of the state for public purposes is essential for the enacting and for the execution of law, and for international interchange. No body of people can be recognized as having international status without a definite political organization. This organization must be adequate to ascertain and express the public will and must have

supreme power to subordinate all other wills to that which is taken as the will of the state. Supremacy within and independence without are the essential marks of sovereignty.

Analysis of the State.—A given state may be considered from two points of view: either as including all the people who belong within the state territory; or as including only those whose will is law and who thus have the right to share in the constitution and operation of the state organization. The former we may call the social state and the latter the political state. Those who compose the political state are usually rather a small fraction of the social state, often not more than a fifth, and include only those with full political rights—the electorate. The political organization of the state includes the electorate, or political state, which is the basis of political power, and the government, which is the agency by which the political state performs its functions. The government, then, is by no means the state but is merely the servant of the state. Law is the formally expressed will of the political state as a rule of action, obedience to which is incumbent on all members of the social state.

Classification of States.—States may be classified on the basis of: (a) the extent of the political state; (b) the structure of the political state; (c) the structure of the government.

Democracy, Oligarchy, Autocracy.—A democratic state is one in which the political state is relatively a large part of the social state. In an oligarchic state the political state is relatively a small part of the social state. An autocratic state is one in which the political state is supposed to be a single person.

It will be observed that in the first two classes the terminology is wholly relative. An oligarchy tends towards democracy as the number of those sharing in political power increases; the state thus becoming less oligarchic. One state may be more or less democratic than another, as the ratio of the electorate to the social state varies. The tendency during the last century in most states has been to lessen the restrictions on suffrage, thus increasing the relative size of the political state. This has been notably true in Great Britain and in the United States, but indeed is true in all states with constitutional government. In other words, the century has been marked by the advance of political democracy; states have become more democratic.

States Centralized or Federal.—States may also be classified on the basis of the organization of the political state. If the will of the political state is determined in mass the state is centralized. If the will of the state is determined by weighing the separate will of a series of fundamental groups, the state is federal. France is a centralized state. Its departments are mere administrative conveniences.

ces, created and subject to change at the option of the central government. Its fundamental law is enacted by the central legislature, the two houses uniting, and thus merely representing the electorate *en masse*. The United States is a federal state. The federal groups (called states, though the term is not strictly accurate) exist by virtue of fundamental law, beyond the control of the federal Congress. In a federation the federal groups might better be called commonwealths. The final will of the state as embodied in enactment or change of the fundamental law (the Constitution) is ascertained by determining the will of a specified majority (three-fourths) of the commonwealths (Art. V).

The German Empire and the Swiss Republic are federal states.

Democracies, Republics, Monarchies.—On the basis of government, states may be classified as pure democracies, in which nearly all functions of government, and especially legislation, are performed directly by the political state; republics, in which representatives chosen directly or indirectly by the political state carry on nearly all the functions of government, including legislation and adjudication; monarchies, in which the head of the administration owes his position to birth rather than to personal choice by the political state. A state may also be called oligarchic (or aristocratic) if the members of a branch of the government owe their position to birth or some other accident independent of the will of the political state. For instance, many members of the British House of Lords, the upper branch of the imperial legislature, hold their position by hereditary title, and some few members by virtue of holding some other office. Strictly speaking, these are all states with a democratic, republican, or monarchical form of government, as the case may be.

Obviously a state may be of one form on the basis of the status of the political state, and of a similar or different form on the basis of the nature of the government. Thus a democratic republic is a democratic state with a republican form of government, and an aristocratic (or oligarchic) republic is an oligarchic state with a republican form of government. In like manner a monarchy may be democratic or oligarchic, as well as autocratic.

Comments.—Pure democracies are practicable only in small communities, and such states no longer exist. Such democracies imply a general uniformity of condition and intelligence, and as increase in population or diversity of character become marked the democracy inevitably tends to pass into a democratic republic.

A republic with powers delegated to the government on the whole has seemed the most practicable form. The entire American continent has adopted this form (Canada being only a nominal exception), and France.

Switzerland, and Portugal are included. Many states classed as monarchical are in fact more or less republican—notably Great Britain and those states on the Continent which have adopted British methods. Such a monarchy has at times been an autocracy, but autocratic monarchies are passing away. In most modern monarchical states the monarch is really little more than the hereditary president of a more or less democratic republic. Great Britain is a democratic monarchy, republican in fact, with sundry aristocratic survivals.

Democracy of any kind is the best form of state organization for a community which has intelligence generally diffused among a people self-reliant and mutually tolerant. In a monarchy like Russia or a republic like Mexico, each having a large illiterate mass in the population, a real political democracy is by no means easy to maintain. But in any event a political oligarchy is a mere half-way station between autocracy and ultimate democracy. Autocracy may be highly efficient, but tends to become a tyranny.

The purpose of all political organization is the well-being of the social state as a whole. No one has a natural right to membership in the political state, and the sole test which should be used in extending the suffrage is the effect of the extension, not primarily on those enfranchised only, but on the entire community.

Government is centralized or federal according to the nature of the state. A centralized government may be more efficient than a federal government, but the latter is more responsive to the variety of ideas which may characterize a large state, and also on the whole is more likely to be permanent. The Supreme Court description of the American federal state as "an indestructible union of indestructible states" very happily characterizes any real federal union.

See COMPOSITE STATE; CONFEDERATION; FEDERAL STATE; GERMANY, FEDERAL ORGANIZATION OF; NATION; POLITICAL THEORIES; REPRESENTATIVE GOVERNMENT; STATE, THEORY OF; UNITARY STATES; SWITZERLAND, FEDERAL GOVERNMENT IN.

References: J. K. Bluntschli, *Theory of the State* (6th ed., translated, 1885); J. W. Burgess, *Pol. Sci. and Comparative Constitutional Law* (1891), I; J. Q. Dealey, *Development of the State* (1909); W. A. Dunning, *Hist. of Pol. Theory* (1902-5); J. W. Garner, *Intro. to Pol. Sci.* (1910), 123-167; R. A. Gettell, *Intro. to Pol. Sci.* (1910), 9-204; T. E. Holland, *Elements of Jurisprudence* (10th ed., 1906); G. Jellinek, *Das Recht des modernen Staates* (1905); J. S. Mill, *Representative Government* (1882); W. W. Willoughby, *Nature of the State* (1896); W. Wilson, *The State* (rev. ed., 1909); T. D. Woolsey, *Pol. Sci.* (1889).

HARRY PRATT JUDSON.

STATES, COMPACTS BETWEEN. After the Declaration of Independence the several colonies became theoretically sovereign states and capable of contracting with each other in that capacity; although they did not in fact exercise in full the functions of sovereignty by entering into separate relations with foreign governments. By agreeing to the Articles of Confederation they expressly bound themselves not to enter into any conference, agreement, alliance or treaty with any king, prince, or state, and they further agreed that they would not enter into any treaty, confederation or alliance between themselves without the consent of the United States in Congress assembled (ART. OF CONFED., VI). By the Constitution the states are prohibited from entering "into any treaty, alliance or confederation" (Art. I, Sec. x, ¶¶ 1, 3), and from entering "into any agreement or compact with another state or with a foreign power" without the consent of Congress. Judging from its associated provisions the first of these prohibitions relates to the exercise by the states of functions intended to be reserved within the exclusive control of the Federal Government, while the latter relates to matters concerning the states but to some extent affecting their relations under such government. No very clear distinction between the subject matter of the absolute prohibition and that of the qualified prohibition has been discovered but it has been held that a compact between an existing state and a new state formed by consent of Congress out of a portion of its territory as to the conditions of the separation is valid under the second provision, and that an adjustment of a boundary line made between two adjacent states is binding upon them although no express consent of Congress has ever been given to such agreement.

The recognition of the justiciable character of controversies between two or more states (Art. III, Sec. ii, ¶ 1) would seem to imply a power to adjust controversies between states by their mutual action to such extent that they would be bound by the result; for it is difficult to conceive of a power to litigate which does not involve a power to adjust the subject matter of litigation.

References: J. Story, *Commentaries on the Constitution* (5th ed., 1891), §§ 1355, 1403; W. W. Willoughby, *Constitutional Law* (1910), § 112; *Virginia vs. West Virginia* (1870), 11 *Wallace* 39; *Virginia vs. Tennessee* (1893), 148 *U. S.* 503. EMLIN MCCLAIN.

STATES, CREATION OF. See RECOGNITION OF NEW STATES.

STATES, EQUALITY OF. Sixteenth Century.—During the sixteenth century new conceptions of the nature of the state arose. Bodin's idea of sovereignty as absolute, indivisible, and inalienable, and the theories of

other writers, prepared the way for the doctrine of the equality of states. The political conditions toward the end of the sixteenth century suggested the possibility of the family of states which made it natural for such theorists as Suarez to write early in the seventeenth century:

Every state, republic, or kingdom, forms a member of this general body which is the human race. None of these states is sufficient for itself: all have need of reciprocal support, association, and mutual relations to ameliorate their situation.

Seventeenth Century.—Grotius in 1625 carried the ideas of Suarez to a fuller development and added the force of his great ability and wide experience in his *De Jure Belli ac Pacis* which marked an epoch in the recognition of the rights of states as such. The emphasis by Grotius upon the rights of states as political entities based on a natural equality among independent states had much influence during the second quarter of the seventeenth century and many editions of his great work appeared. The law of nature was such as would furnish a support for a universal law to which all should be subject and before which all would be equal.

The Treaty of Westphalia in 1648, made under the influence of the theories of Grotius, became the fundamental document of modern European diplomacy and evidenced the growth of the idea of equality as a state attribute. The equality recognized was not of area, population or power, but of international status.

Eighteenth Century.—The treaties from 1713 on showed a growing tendency towards tacit admission of this equality among states. Chief-Justice Marshall, in 1825, two hundred years after Grotius, was able to say in an opinion of the Supreme Court:

No principle of general law is more universally acknowledged than the perfect equality of nations. Russia and Geneva have equal rights. It results from this equality that no one can rightfully impose a rule on another. Each legislates for itself, but its legislation can operate on itself alone. A right, then, which is vested in all by the consent of all, can be divested only by consent. . . . As no nation can prescribe a rule for others, none can make a law of nations (*The Antelope*, 10 *Wheaton* 66).

Congresses of Nineteenth Century.—The congresses and conferences (*see*) of the nineteenth century were assembled and acted on the basis of a political equality; but they raised new questions as to the continued recognition of the equality of states, because of many congresses in which small states in decisive votes claimed the same weight as the large states. The question of equality of influence had already been raised in regard to the weight of affairs of the different states, and a list of "Great Powers" and "Minor Powers" was commonly mentioned during the latter half of the nineteenth century.

The differences became even more marked as some states in the last quarter of the nine-

teenth century began to be recognized not only as "Great Powers" but also on account of the extent of their dominions as "World Powers." This practical recognition of the differences among states was accompanied by a change in the theories in regard to state attributes, the doctrine of equality began to be questioned seriously and the propriety of following it as a working rule seemed to many inconsistent.

Hague Conferences.—The Second Hague Peace Conference in 1907 put a severe test upon the application of the principle of equality of states. Forty-four of the states of the world were assembled, each possessing one vote. Montenegro had the same numerical weight in the voting as Great Britain; Panama the same as the United States. At this conference the question was definitely raised when it was proposed that an attempt should be made to select the judges of the international prize court of arbitral justice according to a system which should give to the different states a number of judges corresponding to their relative rank. The representatives from the South American states and from some of the smaller states protested against any deviation from the principle of numerical equality in representation. Speaking of the basis of representation in the international prize court the delegate from Brazil said, "We have been given instructions of the most formal kind to oppose it by not subscribing to any combination which has not for its basis equality of nations." The question of equality of states has since received more attention as being one which must be considered by future conferences.

Tendencies.—In some international organizations the powers are classified. The Universal Postal Union has seven classes, the large states like the United States being in the first class and bearing twenty-five times as much of the expense as Liberia in the seventh class. The International Radiotelegraphic Convention of 1906 and other conventions of recent years recognize in fact the inequality of states by giving to the divisions of the larger states the right to vote but limiting the number of votes of any state with its subordinate divisions so that it may not exceed six. There is much difference of opinion as to the future of the recognition of the equality of states. Some writers believe in the system. Others agree with Dr. Lawrence, who says, "It is impossible to hold any longer the old doctrine of the absolute equality of all independent states before the law."

See MONROE DOCTRINE; RECOGNITION OF NEW STATES; SOVEREIGNTY. THEORY OF; STATE SOVEREIGNTY; STATE. THEORY OF.

References: T. J. Lawrence, *Essays on Some Disputed Questions in International Law* (1885), 230; F. C. Hicks, in *Am. Journ. of Int. Law* (1907), I, 530. T. J. Lawrence, *Int. Law* (1910), 268 *et seq.*; L. Oppenheim, *Int.*

Law (1912), I, 168; H. Wheaton, *Hist. of the Law of Nations* (1904), 636.

GEORGE G. WILSON.

STATE'S EVIDENCE. The testimony by a participant in the commission of a crime, tending to eriminate the other participants, and given under the express or implied promise of immunity for such witness. H. M. B.

STATES IN THE UNION. The United States has been described as an indestructible union of indestructible states. The fundamental principle of constitutional construction is that the United States government is one of enumerated powers and that it is possessed of only the powers that are granted expressly or by reasonable implication. All other powers are reserved to the states or to the people. The Constitution contains a number of restrictions. These are directed to the action of the national government except when the states are expressly mentioned. There are a number of such express restrictions upon the states (*see* CONSTITUTION OF THE UNITED STATES, PROHIBITIONS IN). These are: (1) Those that are intended to prevent the states from doing things that might interfere with the activities of the national government. For example, no state shall enter into any treaty, alliance, or confederation, or grant letters of marque and reprisal (*see*), coin money, emit bills of credit (*see*), etc.; no state shall without the consent of Congress lay any imposts or duties on imports or exports except what may be absolutely necessary for executing its inspection laws. No state shall lay any duty on tonnage (*see*) or keep troops or ships of war in time of peace, or enter into any agreement or compact with another state or with a foreign power, or engage in war unless actually invaded or in such imminent danger as will not admit of delay (Art. I, Sec. x). (2) Another class of prohibitions includes those that are intended to prohibit the states from interfering with certain individual rights and liberties; for example, no state shall pass a bill of attainder (*see*), *ex post facto* law (*see*), or law impairing the obligations of contract; no state shall deprive any person of life, liberty or property without due process of law nor deny to any person within its jurisdiction equal protection of the law. (3) The third class includes provisions which are intended to make for the working harmony of the states; for example, the citizens of each state are entitled to all the privileges and immunities of citizens in the several states. Provision is made for the extradition of fugitives from justice, and full faith and credit must be given in each state to the public acts, records, and judicial proceedings of every other state.

The state has the right of determining the question of suffrage except as it is limited by the Fourteenth and Fifteenth Amendments

and in this way determines what person shall have the right to vote for Representatives in Congress and also for presidential electors. The state is entitled to be protected by the United States Government, to have the assistance of the Federal Government in the case of insurrections and invasions, and to be assured a republican form of government. The outcome of the Civil War, whatever may be said of conditions before that time, established as a principle that states cannot secede from the Union and are not possessed of full and unalloyed sovereignty.

As explained in other articles, the states have the right to pass laws on which the United States Government may also legislate (see BANKRUPTCY, CONSTITUTIONAL PROVISIONS AFFECTING; CONCURRENT POWERS). The mere granting of authority by the Federal Constitution to the United States Government to legislate is not conclusive evidence that the state cannot also legislate on the same subject.

Each state is freely allowed to legislate on all subjects of general internal concern and on the relations between man and man subject to the restrictions suggested above, the restriction which is of most significance being that portion of the Fourteenth Amendment which provides that no state shall deprive any person of life, liberty or property without due process of law. Each state has its own constitution and the right to make and amend its own constitution. The constitution or laws, however, must not violate the Constitution or laws of the United States which are the supreme law of the land; and the judges of each state are under obligations to be bound by the Constitution, laws, and treaties, anything in the constitution or laws of the state to the contrary notwithstanding (Art. VI, § 2). Each state in the Union has the political power and authority of every other state, a matter which was not until recently

established absolutely authoritatively by the courts. The possibility of establishing a union of unequal states had arisen through the process of placing conditions on admission (see ADMISSION OF STATES). In the case, however, of *Coyle vs. Oklahoma* (221 U. S. 559), decided in 1911, the Supreme Court decided that, when a new state is admitted into the Union, it is so admitted with all the powers of sovereignty and jurisdiction which pertain to the original states.

See CONCURRENT POWERS; DOUBLE CITIZENSHIP; EXTRADITION, INTERSTATE; INTERSTATE LAW AND RELATIONS; PRIVILEGES AND IMMUNITIES OF STATE CITIZENSHIP; SPHERES OF GOVERNMENT; STATE RIGHTS; STATE SOVEREIGNTY; UNITED STATES AS A FEDERAL STATE.

Reference: T. M. Cooley, *Constitutional Limitations* (6th ed., 1890), chs. ii, iii.

ANDREW C. McLAUGHLIN.

STATES, UNITARY. See UNITARY STATES.

STATION HOUSES. For the efficient performance of police functions an American city is divided into police districts or, as they are sometimes called, police precincts. In each precinct there is a station house or local police headquarters. This building, owned by the municipality, is in charge of a police captain, police lieutenant, or other police officer; it is the place where local police records are kept; also the center at which the local police reserves are kept, from which patrolmen are dispatched to their posts of duty. As a rule the station house is a local place of detention for persons under arrest and contains a number of detentive cells. In many cities any man, not suspected of crime, may on application receive a lodging in bunks kept up for that purpose in the station house. See POLICE IN AMERICAN CITIES; PRECINCT, MUNICIPAL; VAGRANCY.

W. B. M.

STATISTICS

Definition.—By the term "statistics" is meant the numerical presentation of facts relating to aggregates of phenomena. As the term is now generally conceived there is no independent science of statistics. The statistical method may be applied as an adjunct to numerous sciences, to any in which there are aggregates of phenomena capable of numerical measurement, but in no science is it the exclusive method of ascertaining or presenting facts. Formerly the term "statistics" was used exclusively in connection with numerical presentations of social, economic, or political phenomena. In fact, the word is derived from the Latin "*status*" with the mediæval meaning of the political state. In its original use, in-

deed, the term "statistics" was not confined to numerical presentations, but included also other descriptive data. By a gradual transition, however, it came to be restricted to numerical data and afterwards to be applied to numerical data with regard to other than social, economic, and political subjects, including data as to various so-called natural sciences.

The statistical method, however, has still by far its principal use in connection with facts relating to human societies, and is the most important method of ascertaining and presenting data regarding social, economic, and political phenomena. In this field the method is constantly being extended in scope

and carried to a higher degree of elaboration. This is a natural result of the increasing magnitude and complexity of human societies. In a society consisting of a few score or a few hundred persons, supplying its own needs and living in a simple manner, direct observation, without precise numerical determinations, will permit an approximately accurate knowledge of conditions and laws. As the society increases in numbers and in the complexity of its external and internal relations, such direct observation becomes less and less practicable and statistical methods become more and more necessary. Concerning many facts of fundamental social importance it is impossible in a large community to form any definite idea except by a numerical presentation. For example, take the death rate. Individuals may be able to form some general impression, from instances coming under their observation, as to whether deaths are increasing or decreasing in proportion to the population, but to generalize observations and obtain conclusions at all accurate requires systematic statistics. Still more impossible would it be to arrive at any knowledge as to the causes of changes in death rates without the statistical method.

Statistics therefore have a profoundly important use as a basis of scientific knowledge, particularly in the group of sciences having to do with human society. They are also essential as a guide to action. Very few important subjects of legislation can be properly considered without statistical data. Even a private business concern often cannot properly determine the policies it shall pursue without statistical information as to conditions in the industry in general and in its own internal affairs.

Governmental Statistics.—Both governmental and private agencies collect statistics. The most important statistics of social, economic, and political phenomena are those collected by governments. This is naturally the case. The government, as the organized representative of the whole people, the center of its social, economic, and political life, is the natural agency for collecting statistical data regarding matters which affect the entire community. Moreover, the sovereign power of the government enables it to compel its citizens to furnish statistical information which, in many cases, would not be voluntarily furnished to a private agency.

With respect to purpose and method, governmental statistics fall into two main classes between which, however, stands an intermediate class. One class of government statistics records the transactions of the government itself; such statistics are, in a sense, a by-product of the primary administrative functions of the state. Such, for example, are statistics of the government's own finances, of the number of letters and mail packages it carries, or of the number of prisoners or insane

in its institutions. Over against these statistics stand those which are not associated with any administrative functions, but are collected by the government solely for its own information and the information of its citizens. The most conspicuous example is the census, none of the features of which, save the determination of the number of inhabitants for the purposes of representation, is incidental to any other function of government. Intermediate stand those statistics which, while collected in connection with the administration of some other function of government, are not an essential part of that function, but have a broader purpose. An example is found in the statistics of exports and imports, which are collected in connection with the administration of customs laws, but which, particularly the statistics of exports, are not an essential part of the customs administration.

Statistics Collected by the Federal Government.—In the United States the statistics collected and published by the Federal Government cover a much wider scope than those collected by state or local governments. This is naturally the case because the most important classes of social, economic, and political phenomena are not bounded by state or other local lines. There is probably no government in the world which collects a greater mass of statistics than the Federal Government of the United States. Every department of the Federal Government, publishes more or less statistical information, but the most important departments in this respect are those of the Treasury, Agriculture, Commerce, Labor, the Interior, and the Interstate Commerce Commission (*see* STATISTICS, OFFICIAL COLLECTION OF).

Statistics Collected by State and Local Governments.—All of the state governments in the United States publish more or less statistical material. In some states this is practically confined to facts relating to the administration of the government itself—finances, inmates of state institutions, and the like. In many states, however, officials or boards exist for the regulation of railroads, insurance companies, and other quasi-public enterprises, and these authorities commonly publish statistical information. In a large proportion of the states there are also bureaus which collect information regarding industries and regarding conditions of labor. Over one-fourth of the states take censuses of population, usually in the fifth year after the decennial census taken by the Federal Government. Over a third of the states have systems covering the entire state for the registration of death. In various other states registration is maintained by the larger cities. There has been a gradual extension during recent years of the area for which vital statistics are available; at present that area includes about three-fifths of the population of the country. The United States

is, however, far behind in respect to vital statistics: most foreign countries have systems covering their entire population.

Very few cities or other local governments in the United States publish satisfactory statistics even of their own governmental operations, and still fewer publish statistics of any other character. Statistics of public finances are very generally published, but seldom in satisfactory form. Statistics of crime, of persons in institutions, and of the extent of certain municipal activities are published by some cities, usually in a more or less desultory manner. There has been of recent years, however, a marked increase in interest on the part of the public in municipal and other local statistics. It is obviously desirable, as a means of judging the efficiency of government and of remedying abuses, that every local government should have satisfactory statistics showing, not only the amounts of money expended for different purposes, but the results accomplished and the cost per unit of service rendered. Cities, particularly large cities, might also advantageously collect statistics regarding local conditions with respect to several subjects not directly pertaining to the administration of government: *e. g.*, housing conditions, other sanitary conditions, street railways and other transportation to and from and within the city, mercantile business, etc.

Statistics Collected by Private Agencies.—Of the statistics collected by private agencies much the most important are those relating to commerce and industry. Statistics of this character may cover the business of numerous individuals or concerns or may relate only to the internal affairs of a single concern. Statistics of the first class mentioned are usually collected either by associations of business men or by trade journals: in most cases such statistics are made public, but in some instances their circulation is confined to the members of the associations who furnish the information. Almost every branch of commerce and industry is supplied more or less extensively with statistical information collected by private enterprise. In the aggregate private agencies probably collect a greater volume of statistics regarding business conditions than governmental agencies.

Of rapidly increasing importance are the statistics of individual business concerns regarding their own internal transactions. No sharp line of distinction can be drawn between ordinary accounting and business statistics, but there is obviously a wide gap between a rudimentary bookkeeping system, sufficient merely to enable a firm to determine the amount of its profit and loss, and a thorough-going system of cost accounting and statistics which presents the condition of the business in its every detail, affording important means of securing economy and of wisely directing business policy. Most private concerns which

prepare statistics regarding their business do not make them public, but some of the large corporations publish them at least in part. A considerable amount of statistical information regarding other than business matters is also collected by private agencies. Individual students, colleges, associations for study and betterment of social and economic conditions, frequently undertake statistical investigations, and in a few cases such investigations have been of a very extensive character. Such private investigations, however, are apt to be limited in scope by reason of inadequate financial support, and also are likely to encounter difficulty through the absence of compulsory power.

Requisites of Good Statistics.—The phenomena to the investigation of which statistical methods are most appropriate are, in many cases, so complex that only by great care can erroneous data and erroneous conclusions from data be avoided. A particular set of cautions needs to be observed in handling each particular class of statistics, but there are certain general cautions which apply universally, or at least very commonly, with respect to the use of the statistical method. The value of statistical presentations is often seriously impaired by positive inaccuracy. With reasonable care errors in the summation of figures can be avoided, and serious errors of this character are, in fact, uncommon. The difficulty is in securing correct original data. Error in the original returns may arise from inefficiency or neglect on the part of persons collecting them or from ignorance or indifference on the part of persons who furnish information. Questions are sometimes asked which the average person interrogated simply cannot answer correctly. For example, to ask a farmer the value of the products of his farm which his own family and stock consume is, in the present condition of accounting methods among farmers, practically useless. Another mistake consists in asking too many questions, with the result that the attention of the interrogator and of the person interrogated flags or even that resentment is aroused. The fact that a government may possess compulsory power to require information and to punish those who make false statements is often no adequate protection against error. The statistician should test by every means in his power the accuracy of his original returns; he should use every practicable measure to reduce the margin of error to a minimum; and he should frankly make known to the public the existence and probable degree of such error as cannot be eliminated.

In many cases statistics are rendered misleading, or at least lose much of their significance, through the lack of adequate analysis of the factors entering into totals and averages. Apparent tendencies or causal relations may appear in aggregate figures which cor-

respond to no tendency or causal relations existing in any one of the different elements making up the totals. In other cases such aggregate figures may possess some significance, but fail to disclose important facts which would appear by further analysis. The phenomena which are subjected to the statistical method are usually far from simple, and it is, therefore, usually impossible to make correct generalizations from a few totals and averages, attractive as they may appear on their face. For example, a common statistical fallacy resulting from lack of adequate analysis is in the use of crude death rates, that is, rates calculated on the relation between the total number of deaths and the total population. The death rate differs so enormously at different ages that comparisons between places, periods of time, or classes of people are utterly misleading unless the age distribution is taken into account. Again, statistics of the relation of the number of crimes to the population are misleading unless the age distribution is considered.

Serious statistical fallacies often arise in the use of averages. These fallacies fall logically under the heading, lack of analysis, but they are so common and important as to deserve separate mention. One common error is the use of unweighted averages in cases where the different factors entering into the averages are widely different in relative importance. An example is the calculation of average prices or index numbers for a combination of a number of distinct articles, without allowing for differences in their relative consumption and utility.

A second common fallacy is the attempt to make an average of items which differ so widely in range that the average does not correspond at all closely to the actual figures for any considerable portion of the factors. For example, an average income for all individuals or families would have little significance under modern conditions, because the enormous incomes of a very small number of persons would have as much weight in the average as the small incomes of a very large number. Averages should be used only where the range of variation among the phenomena is comparatively narrow or where the number of extreme cases is so small as to have little effect. In the absence of these conditions it is essential to substitute for the average, as a means of statistical presentation, a system of classifying the phenomena in groups in the order of the magnitude of the factor under consideration; such a system results in what are called "frequency tables."

Statistical Associations.—In the United States there are several national associations devoted to the different branches of political, economic, and social science, the more important being the American Economic Association, the American Sociological Association, the

American Society for Labor Legislation, the American Political Science Association, and one section of the American Association for the Advancement of Science. Papers presented at the meetings or in the publications of all of these associations deal often more or less extensively with statistical material and methods. Besides these there is a national organization peculiarly devoted to statistics, namely, the American Statistical Association. This association is older than any of the others named; it was organized in Boston in 1839 and incorporated under the laws of Massachusetts in 1841. Its formation followed shortly after that of the British Royal Statistical Society, which dates from 1834. The association has held annual meetings since its organization. Since 1888 it has published a periodical known as the *Quarterly Publications of the American Statistical Association*. The articles in these publications, together with the discussions at the annual meetings, have been of much service to statistical science.

International meetings of leading statisticians have been held more or less regularly for over half a century. International Congresses of Statistics were held at irregular intervals from 1853 to 1876. At the jubilee meeting of the Royal Statistical Society of London in 1885, however, a permanent International Statistical Institute was organized and is still in active existence. The membership of the International Statistical Institute is limited to 200 ordinary members and one-tenth of that number of honorary members. The Institute elects its own members, and, while a large proportion of the members are engaged in governmental statistical work, persons not in the government service are often elected. Nevertheless, the Institute has a semi-official standing. While the Institute determines the places of its meetings, which are held every two years, it is the custom of the government of the country where the meeting is to be held to issue an invitation to the other governments to send delegates. Such delegates may or may not be members of the Institute. The only meeting of the Institute which has been held in the United States was in 1893 in connection with the World's Columbian Exposition.

See CENSUS; FOREIGN ELEMENTS IN UNITED STATES; POPULATION OF UNITED STATES; STATISTICS, OFFICIAL COLLECTION OF; VITAL STATISTICS.

References: R. Mayes-Smith, *Science of Statistics* (1896); Am. Statistical Assoc., *Quarterly Publications*; W. I. King, *Elements of Statistical Method* (1912).

E. DANA DURAND.

STATISTICS, OFFICIAL COLLECTION OF.
Federal Statistics.—The United States Government is probably the largest gatherer and

compiler of statistics in the world. The first separate organization for this work was the Bureau of Statistics, established in the Treasury Department in 1820, and dealing mainly with the statistics of exports and imports. In 1877 this Bureau began the publication of the *Statistical Abstract of the United States*, which has since been continued, gradually increasing in bulk, and bringing together in convenient form a body of national and international statistics condensed from the reports of other bureaus and departments and from miscellaneous private sources. A division of statistics, since made a bureau (*see*), was established in the Department of Agriculture upon its organization, which has developed a unique system of estimating the quantity and value of all crops, and of forecasting the condition and yield of crops in advance of their harvesting. Annual reports on the production of gold and silver are made by the Mint, and of other metals by the Geological Survey. The State Department has its own compilation of international trade statistics, based upon consular reports (*see*). Other statistics annually compiled are those of banking and currency, published by the Comptroller of the Currency (*see*); of immigration, emigration and naturalization, compiled by the Bureau of Immigration; of mercantile shipping, compiled by the Bureau of Navigation; of railroads and railroad transportation, by the Interstate Commerce Commission (*see*); of patents, by the Patent Office; of pensions, by the Pension Office; of fisheries, by the Bureau of Fisheries; of the manufactures of tobacco, and malt and spirituous liquors, by the Internal Revenue Bureau; and of education, by the Bureau of Education. In 1884 the national Bureau of Labor was established, and has since published voluminous reports relating to industrial and labor conditions, including strikes and lock-outs, the cost of living, etc. The Census Office, temporarily reestablished every ten years in the Department of the Interior, compiles the statistics of population, agriculture, manufactures, mines and mining, wealth, debt and taxation, and many other subjects (*see* CENSUS). The permanent Census Office was established March 6, 1902, and has been charged with numerous additional statistical investigations.

Largely with a view to concentrating and coördinating the statistical work of the Government, the Department of Commerce and Labor (made two separate departments, 1913) was established February 14, 1903, and the Census Office, Bureau of Statistics, Immigration Bureau, Bureau of Labor (previously an independent department), Bureau of Navigation, Bureau of Fisheries (previously the Fish Commission), were transferred to its jurisdiction. In 1912 the Bureau of Statistics and the Bureau of Manufactures were combined under the name of the Bureau of Foreign

and Domestic Commerce. The official statistics of the Government, compiled by so many different bureaus, each operating independently of the others, has been marked by great duplication and overlapping, and much inconsistency, involving confusion and contradiction. Some of these faults have been corrected since the new department was established, and numerous reports have been transferred from other bureaus to the Census Office, which was intended, as both the organic acts indicate, to become the general statistical clearing house of the Government. Various departmental committees have been appointed, from time to time, still further to concentrate and coördinate statistical work, but nothing of value has come from them, and Congress has taken no further action.

State Statistical Reports.—There exist in all the states series of statistical reports, whose volume and variety exceed those of the nation. In 1867, Massachusetts established the first bureau of labor statistics, and forty-four such state bureaus now exist, charged with statistical work within the state limits, along lines more or less similar to those of the Bureau of Labor and the Census Office. There exist also many state mining bureaus, or boards of mining inspectors, boards of agriculture, forestry and fisheries, state banking and insurance departments, state geologists, state boards of health and charities, railway and public utilities commissions, state superintendents of education, etc., all of them compiling statistical data required by law, and together producing an annual output of material, often highly technical in character, in which the general student of statistics is overwhelmed when he seeks to digest the available data; for many of them are compiled on lines that differ in important respects from those adopted in other states and in federal bureaus, so that one of the chief purposes sought—comparison between conditions in the several states—is largely lost.

No attempt is anywhere made to combine, compare and correlate this vast mass of statistical material. Such a function could be assigned by law to the permanent Census Office, which has demonstrated the advantages to accrue from such work by its admirable reports on the financial and other statistics of municipalities. From these reports it is now possible to learn the comparative and per capita expenditures for municipal government, carefully segregated, for all American cities of 30,000 population and over.

European Statistics.—The defect of American official statistics, both national and state is a lack of coördination and unification; the cost of compilation is excessive, while their practical value is greatly decreased. In both respects, the United States is behind the most advanced European nations, primarily because of the diversity of statutes and administra-

tion, inherent in a federal system. In Europe, there has been a transfer of statistical functions from divergent local authorities to some central authority, as for example in the German Empire, which in 1873 created an imperial statistical office in which has gradually been concentrated most of the statistical work formerly conducted by the several kingdoms and states, such as the statistics of population; of foreign and internal trade, and canal, railroad and maritime traffic; marine disasters; mines and mining; agriculture and manufactures; wholesale prices; industrial conditions; steam boilers and engines; crime and pauperism; insurance against sickness and old age, and relief of the poor; occupations and trades; the issue of paper money; suicides; the conditions of the labor market, etc. Many subjects included in German statistical investigations are not covered by either the federal or state investigations of the United States. In many of these German investigations the field work, or collection of the data, is done by the Central Office; in others, the field work is done by the statistical offices of the several states and forwarded to the Central Office for tabulation, correction and publication.

In Great Britain official statistics are in the main compiled by the Board of Trade and by the registrar-general's office, each divided into many branches, together making all the reports required for governmental or general sociological purposes, including the census and the annual vital statistics. In Canada the statistical work of the government has been largely concentrated in the census and statistics bureau.

Movement for Uniformity in the United States.—What these countries have accomplished by statute must be done in the United States, if at all, as the result of conferences between the diverse state agencies and the national Government, looking to a voluntary uniformity in statistical blanks and methods. The most striking instance of success in this direction is that initiated by the Director of the Census in the effort to build up a system of uniform vital statistics (*see* VITAL STATISTICS IN THE UNITED STATES). Gratifying as has been the progress made in this field, the United States remains far behind every other great civilized nation in the field of vital statistics—the field that touches the people most closely by reason of its intimate relation to the public health. Progress has been made toward the unification of national statistics through coöperation between government bureaus. The director of the permanent Census Office effected arrangements with the Mint, the Internal Revenue, the Marine Hospital Service, the Geological Survey, the Bureau of Education, the Bureau of Statistics, the Forest Service, the Civil Service Commission, and the Bureau of Fisheries, whereby the data compiled by each and also

by the Census were prepared on a coöperative basis, and many of the previous inconsistencies eliminated.

In international statistics, the organization of the International Institute of Agriculture, in 1907, with headquarters at Rome, Italy, supported by thirty-three contributing nations, marks the first attempt to bring the agricultural statistics of the world upon a uniform basis, with a view to measuring the food supplies and their distribution. It has organized its work very largely along the methods of crop reporting devised by the Department of Agriculture for predicting and measuring the crops of the United States.

See BANKING, PUBLIC REGULATION OF; COST OF GOVERNMENT IN THE UNITED STATES; EXPENDITURES, FEDERAL; EXPENDITURES, STATE AND LOCAL; STATISTICS; VITAL STATISTICS IN THE UNITED STATES; WEALTH, NATIONAL, and bureaus and offices by name.

References: R. Mayo-Smith, *The Science of Statistics* (1896–1899), Pts. I, II; R. Giffin, *Economic Inquiries and Studies* (1904); F. A. Walker, *Discussions in Economics and Statistics* (1899).
S. N. D. NORTH.

STATUS QUO ANTE BELLUM. The state of things before the war, is a term sometimes used in treaties of peace when it is the intent of the negotiators to indicate that all relations, and particularly the possession of territory, shall be restored to the conditions which existed prior to hostilities. **See** CONQUEST, RIGHT OF; PEACE, CONCLUSIONS OF; WAR, INTERNATIONAL RELATIONS DURING.

G. G. W.

STATUTES, STATE. State statutes are the legislative will of the state, attested by prescribed forms and solemnities, prescribing rules of action. In general, their source is the representative law-making body, created in accordance with the state's constitution; but a dozen or more states, by constitutional amendment, have authorized the making of laws by popular vote upon initiative and referendum (*see*) petitions.

State constitutions usually require that the title of each act shall clearly express its object; that each act have a formal enacting clause; that it be attested by the signature of the president of the senate and of the speaker of the house to the statement that on specified dates the measure passed their respective branches. The "enrolled bill," thus attested, is the original act, to which reference is made in testing the accuracy of any subsequent version. If the governor approves the law, he gives it its final sanction by signing the bill, and delivers it to the secretary of state for filing and publication. Unless otherwise provided by the constitution, by law, or in the statute itself, it takes effect from the date of receiving the governor's approval. As

all the courts of a state take judicial notice of the public statutes enacted by that state's legislative authority, no proof is required of their existence or provisions. In general, however, private or special statutes must be proved by competent evidence, but in most states the production of copies of the acts in question, printed by authority, is held sufficient. Subject to limitations imposed by the constitution, the legislature has plenary power to amend or repeal any statute. Indefiniteness of reference to the act modified has often given rise to so much uncertainty as to just what provisions of the former law remained in force that in twenty or more states it is now required by the constitution that no act may be revised or amended merely by reference to its title, but that the act as revised or amended must be set forth and published at length.

The appallingly large output of each legislative session comprises: (1) ordinary private law; (2) administrative law; (3) measures of a local and special nature. It is this third group which is still by far the most numerous, and which in the past has covered such a multitude of legislative sins that constitutions are placing increasingly rigid restrictions upon the passing of special legislation. Thus Mississippi specifies 35 different topics upon which the legislature is forbidden to make any law of a special nature or purely local application. The enormous volume of laws is due to defective systems of representation; to carelessness and haste; to a lack of responsibility of members in introducing measures; and to a lack of expert service in securing data, in determining how far a new proposal squares with existing law, and in drafting new statutes. Wisconsin has shown how great improvement may be attained through the establishment of a library of legislative reference (*see*), with its staff of experts. Improvement has also come from sessions of the "House of Governors," and from interstate conferences of delegates seeking to promote uniformity in state legislation (*see*) where uniformity is most needed. More than half the states have adopted the negotiable instruments act drafted under such supervision (*see* LEGISLATIVE OUTPUT, STATE AND NATIONAL).

The secretary of state is usually charged with the duty of publishing or promulgating the statutes as required by law. Each legislative act is issued by itself, and later the product of the legislature's labors is compiled into a volume variously called "session laws," "acts and resolves," etc. When the mass of such session laws has accumulated so as to be almost unusable—the output of a single annual session in Massachusetts occupied 1046 pages—a revision is undertaken either by private parties as a business venture, or by commissioners duly authorized by the legislature.

It is customary for the legislature by a single act to enact the product of such a commission's labors as the "Revised Laws" of the state, superseding the session laws up to the date specified.

See **BILLS, COURSE OF; COMMITTEE SYSTEM IN UNITED STATES; DRAFTING OF LEGISLATION; LEGISLATURE AND LEGISLATIVE REFORM; LEGISLATIVE REFERENCE BUREAU; REPORTS OF COMMITTEES; REVISED STATUTES.**

References: J. G. Sutherland, *Statutory Construction* (1904); A. R. Willard, *Legislative Handbook Relating to the Preparation of Statutes* (1890); James Bryce, *Am. Commonwealth* (4th ed., 1910), I, 481-497; "The Making and Revision of Law" in *Am. Pol. Sci. Assoc., Proceedings*, IV (1907), 69-141; P. S. Reinisch, *Am. Legislatures* (1907), 299-330, *Readings in Am. State Government* (1911), 56-84; F. J. Stimson, *Am. Statute Law* (1892), *Popular Law Making* (1910); T. Roosevelt, *Am. Ideals* (1897), 63-101; A. B. Hart, *Actual Government* (rev. ed., 1908), vii. G. H. HAYNES.

STAY-AT-HOME VOTER. **See** **VOTING, COMPULSORY.**

STAY LAWS. Laws enacted by the legislature suspending the operation of remedies against debtors, such as executions on judgments, mortgage foreclosures and the like, or providing that suits shall not be brought until after a specified time has passed after the cause of action arose. H. M. B.

STEAM ENGINEERING, BUREAU OF. The Bureau of Steam Engineering is one of the bureaus of the United States Navy Department (*see*). It is charged with the preparations of plans for repairs and alterations upon machinery of vessels in commission or fitting out at navy yards, and for the construction of new machinery at navy yards and by contract. It conducts an engineering station at Annapolis, where it makes experiments to determine the relative values of different types of engines, boilers and fuels. **References:** Secretary of the Navy, *Annual Reports*; J. A. Fairlie, *National Administration of U. S.* (1905), 160. A. N. H.

STEAM ROLLER. Name applied to methods for putting an end to the claims of contesting delegations and minorities in representative bodies or public meetings. It first became a recognized political term in the Republican National Convention at Chicago, June, 1908, when the regularity and thoroughness with which opposition to the seating of contesting delegations in favor of the nomination of William H. Taft was suppressed, was likened to the action of a road roller which happened to be in operation outside the convention hall. **See** **COMMITTEE ON CREDENTIALS;**

STEAMBOAT INSPECTION—STILL-HUNT

CONVENTION, POLITICAL; CREDENTIALS OF DELEGATES. Reference: Republican National Convention of 1908, *Official Proceedings* (1908). A. B. H.

STEAMBOAT INSPECTION. A Bureau of Steamboat Inspection Service was created in the Treaty Department in 1838, where it remained until transferred to the Department of Commerce and Labor in 1903. When that Department was divided it became part of the Department of Commerce, March 4, 1913. The chief officer of the Bureau is the inspector general, under whom there are ten supervising inspectors and numerous local inspectors. The materials used in constructing marine boilers must be inspected by the Steamboat Inspection Service, and when the boilers are completed they must be inspected, tested and approved before they can be used. It is, also, the duty of the service to inspect, annually, the hulls of all steamers and of sailing vessels over 700 tons, to inspect each year the boilers, machinery and fire apparatus of steamers, to determine how many passengers a steamer may lawfully carry, to enforce the laws concerning the transportation of explosives, and all other laws intended to protect the lives of passengers and crew. It also has authority to prescribe such rules and regulations concerning the operation of ships as the laws permit and the safety of the public may require. No vessel can secure registry or enrollment until its hull, and, if a steamer, its boilers, have been inspected and approved by the Steamboat Inspection Service. Another duty of the Steamboat Inspection Service is to examine and license the officers of steamers. In the case of the captain and mates of a coastwise steamer the examination must include pilotage—the law requiring such officers to be licensed pilots. See INSPECTION AS A FUNCTION OF GOVERNMENT; NAVIGATION, REGULATION OF; PILOTAGE; REGISTRY OF SHIPPING. References: E. R. Johnson, *Ocean and Inland Water Transportation* (1906), xv; *Am. Year Book*, 1912, 56–57. E. R. J.

STEAMSHIP ACCIDENTS. See ACCIDENTS, RAILROAD AND STEAMSHIP.

STEPHENS, ALEXANDER HAMILTON. Alexander H. Stephens (1812–1883) was born near Crawfordsville, Ga., February 11, 1812. In 1834 he was admitted to the bar, and in 1836 entered the House of Representatives as a state rights Whig and an opponent of nullification. He served in the house until 1841, when he declined reelection. In 1843 he was elected to Congress, where he sat until 1859. Here he opposed the Mexican War, though welcoming its results; advocated the compromise of 1850; and assisted to carry the Kansas-Nebraska act. In 1860 he was a presidential elector on the Douglas, or Union Democratic, ticket.

In the secession convention in Georgia, in 1861, he labored to prevent withdrawal, but once secession had been voted, he “went with his state.” He was a member of the provisional Confederate congress at Montgomery, and was elected Vice-President of the Confederate States of America. He was at variance with Jefferson Davis, however, on the question of state rights, and was one of the leaders of the Georgia peace party in 1864. He was a member of the peace conference at Hampton Roads in February, 1865. In May he was arrested, and confined until October at Fort Warren, Boston. In 1866 he was elected United States Senator, but was refused a seat. In 1873 he was elected to the House, serving until 1882. In the latter year he was elected governor of Georgia, and died in office, March 4, 1883, at Savannah. He wrote *A Constitutional View of the War between the States*, 2 vols. (1868–72). See CONFEDERATE STATES; WHIG PARTY. References: H. Cleveland, *Alexander H. Stephens in Public and Private* (1866); R. M. Johnston and W. H. Browne, *Life of Alexander H. Stephens* (1878); J. F. Rhodes, *Hist. of the U. S.* (1893–1905).

W. MACD.

STEVENS, THADDEUS. Thaddeus Stevens (1792–1868) was born at Danville, Vt., April 4, 1792. In 1816 he was admitted to the Maryland bar, and began practice at Gettysburg, Pa. He began his political life as a National Republican, becoming thereafter in turn an Anti-Mason, a Whig, and a Republican. He was in the Pennsylvania legislature most of the time from 1833 to 1842, was a member of the state constitutional convention of 1836, and in 1838 canal commissioner. From 1849 to 1853 he was a member of Congress, and again from 1858 until his death. From the first he was a strong partisan, a bitter opponent of slavery and the compromise of 1850, and the leader of the radical Republicans in the earlier years of reconstruction. He was chairman of a number of important committees, including the joint committee on reconstruction. In this latter capacity he waged bitter and relentless war against President Johnson, insisted upon a rigorous treatment of the South, and was the principal author of the reconstruction acts of 1867. In 1868 he was one of the managers of the Johnson impeachment. He died at Washington, August 11, 1868. See RECONSTRUCTION; REPUBLICAN PARTY. References: E. B. Callender, *Thaddeus Stevens, Commoner* (1882); S. W. McCall, *Thaddeus Stevens* (1899); W. A. Dunning, *Reconstruction, Pol. and Economic* (1907).

W. MACD.

STILL-HUNT. A term applied to an election canvass carried on with little ostensible activity, but accompanied by vigorous secret or underhand work; in such a sense it was

used as early as 1876. It is also applied to the secret wire-pulling of a would-be candidate who openly avows himself not a candidate.

O. C. H.

STOCK ISSUES, REGULATION OF. The issue of corporate shares in the United States is almost universally subject to the statutory requirement that shares shall be issued only for money or for labor or property fairly valued. By the statutes of Kentucky, North Dakota, South Carolina, Tennessee, Utah and Florida, only money and property rated at its "true value" are valid payment for stock, and this rule is applied by many courts in other jurisdictions. The more common rule is, in the absence of proof of fraud, to accept as final the valuations of property made by the corporation's directors. By the Michigan statutes, where shares are paid for otherwise than in cash, there must be included in the articles of incorporation an itemized description of the property received in payment, with the valuation placed upon it. A similar rule is in effect in England under the Companies Act.

So far as the above described statutes are designed to limit the volume of shares in a corporation to the actual value of its property, they have generally proven ineffectual. Property and service paid in for stock have almost universally been notoriously overvalued. This is especially true of the valuation placed upon the shares and bond issues of existing corporations absorbed through consolidation. Only in the field of banking, where all stock must be paid in cash, and in the public service corporations of Massachusetts and New York, has an effectual check been placed upon the tendency to accept property at an excessive valuation in exchange for shares.

In early American corporation history, regulation of stock issues was undertaken chiefly in the interest of the creditors of the corporations. The proposed forms of regulation under discussion in recent years have for their object the protection of the investor in corporate shares against the deception resulting from unregulated issues, and the protection of the public against the excessive prices necessary to pay dividends on inflated capital.

See CORPORATION CHARTERS; CORPORATION, PUBLIC; FUTURES, DEALING IN; PUBLICITY OF CORPORATE ACCOUNTS; RAILROAD CAPITALIZATION; STOCKHOLDERS, LEGAL STATUS OF.

References: F. T. Frost, *Incorporation and Organization of Corporations* (1906), ch. iv; E. S. Meade, *Corporation Finance* (1910), ch. vi; G. E. Horack, *Organization and Control of Industrial Corporations* (1903), Pt. II, ch. vii.

ALVIN S. JOHNSON.

STOCK TRANSFER LAW. In 1895 the legislature of New York imposed a tax on sales and transfers of stock. The tax is 2 cents on each \$100 of face value, equivalent to \$2 per

100 shares. It is a tax on transactions and not on values, and may be classified as a business rather than a property tax. It was advocated on the ground that the general property tax of the state of New York was a failure. In opposition it was urged that the measure was inequitable in that it singled out the stock exchange alone for taxation: no tax was imposed upon produce and cotton exchanges. Moreover, the law imposed as heavy a tax on a share which had a market value of \$50 as on one at a premium of \$150; the result would be to check dealings in low priced shares. Notwithstanding fraudulent practices discovered in the first few years of administration of this tax, executed by washing stamps, the law as a revenue measure has exceeded expectations. The revenue accrues to the state treasury. See EXCHANGES, BUSINESS; GAMBLING. **Reference:** Comptroller of New York State, *Annual Reports*. D. R. D.

STOCK WATERING. As commonly defined stock watering consists in the issue of corporation securities of par value in excess of actual and necessary cash investment. Stock watering may take place at the time of the organization of the company: (1) through the issue of stock at less than par; (2) through the issue of common stock as a bonus to subscribers for bonds or preferred stock, or as a reward for promotion and financing services; (3) through the issue of stock in exchange for property taken at an inflated valuation. The first form is characteristic of the promotion of mining stocks, the second is familiar in the history of railway finance; the third has accompanied the formation of most of the great American industrial corporations. For conspicuous instances of this form of stock watering, see the *Report of the Commissioner of Corporations on the Tobacco Industry*, Part II (1911).

An established corporation may water its stock: (1) through the issue of a stock dividend to its shareholders; (2) through the issue of stock below market value, with the preferential right of its shareholders to pro rata shares in the new issues. When the shares of a company are selling in the open market much above par, the issue of shares at par may be regarded as a disguised form of stock watering.

In the financial world the stock of a company is said to be watered only when its volume is so great that the earnings of the company are inadequate to pay normal returns on its securities. This definition is based upon the principle that not original investment, but actual earning power, is the proper basis of capitalization. From this point of view payment of dividends on watered stock, so frequently enumerated among the abuses of corporate business, becomes a contradiction in terms.

STOCKHOLDERS, LEGAL STATUS OF

See CAPITAL AND CAPITALIZATION: CORPORATION CHARTERS: CORPORATION, PUBLIC; STOCK ISSUES, REGULATION OF.

References: J. Jenks, *Trust Problem* (1909), ch. vi; W. Z. Ripley, *Trusts, Pools and Corporations* (1905), ch. vi, "Stock Watering" in *Pol. Sci. Quart.*, XXVI (1911), 98-121; A. W. Spencer, "Prevention of Stock Watering" in *Jour. of Pol. Economy*, XIV (1906), 542-552.

ALVIN S. JOHNSON.

STOCKHOLDERS, LEGAL STATUS OF.

Definition.—A stockholder is one who holds a membership in a corporation through the ownership of one or more shares of stock. This ownership, and membership in the association, therefore, is called the "stock" and this stock is divided into shares. It is the custom to represent this stock ownership by a certain arbitrarily assumed sum, such as \$500,000 or \$1,000,000, or, as in the original capitalization of the United States Steel Corporation, \$1,100,000,000. This capitalization, as the expression of ownership in the company, is divided into shares, each of which, being a proportionate part of the total capitalization, represents an assumed sum of money. This assumed sum is known as the par value of the stock. If the capital of the company is \$100,000, and is divided into 100 shares, the par value of each share is \$100. Other pars are \$50, \$10 and \$1. In some cases, shares are issued without par value, but this is unusual. The evidence of ownership is an entry on the books of the corporation attesting that John Jones is the owner of 100 shares of its stock. A negotiable certificate of ownership is also issued to the stockholder. The membership entitles him to certain rights, and imposes upon him certain liabilities. His rights are, briefly stated, to participate in the management of the corporation by the election of directors and the decision of certain matters which the constitution or charter of the corporation provide shall be submitted directly to the stockholders, to be faithfully represented by the directors, and to share in those assets of the company, in case it is dissolved, which remain after the debts have been paid. The stockholder, by virtue of his ownership, has the liability to pay for this stock, to the company or to the creditors of the company, and in some cases, the law may make him responsible to the creditors of the company to an amount greater than his stock interests. The rights to participate in profits and assets and the liabilities to stockholders and creditors are based upon the number of shares which each stockholder owns compared with the total outstanding.

Theory of Membership.—Membership in a corporation is acquired by the purchase of its stock, either at the time the corporation is organized or at a later time. The original purchaser is known as a subscriber. Unless

released by the consent of the other stockholders, or unless his subscription has been improperly obtained, he is liable to the corporation the day he signs the subscription agreement, to pay in cash the amount for which he subscribed on such installments, and on such terms as may have been agreed upon.

The stockholders of a corporation are not partners. They owe no duty to one another. They have no mutual obligations. The corporation, moreover, is a legal entity, distinct from the stockholders who comprise it, and a stockholder may enter into contracts with the corporation of which he is a member, and may enforce those contracts by legal process. Stockholders as such are not the agents of the corporation. They have no power to bind the corporation. Legal notice to one or all of the stockholders of a corporation, for example, notice of protest of a note, is not notice to the corporation.

Rights.—Taking up the rights of the stockholder in detail, we find first the right to inspect the corporate books. In most of the states, this right is secured to the stockholder by statute. The inspection must be for a proper purpose, and must be made at such time and in such manner as may be convenient to the officials of the company.

The stockholder has the right in preference to strangers to subscribe for his proportionate part of any new stock which may be issued, and he can sell or otherwise assign this right. When new stock is issued for property, however, this right of the stockholder does not exist.

Participation.—The stockholder has the right to share in the management of his company by casting a number of votes equal to the number of shares which he holds, at regular or special meetings of the stockholders. At such meetings he may vote for directors, for the increase of the capital stock of the company, and on any other matter which the corporation law of the state or the charter of the company requires to be submitted to them.

At these meetings, in the absence of some requirement for a larger proportion, a majority of the votes cast is decisive, and in the absence of some different provision in the charter or by-laws, a majority of the shares outstanding is a quorum. When the stockholder enters the corporation, he, by that act, agrees to be bound by the will of the majority so long as they act in good faith and according to law.

Aside from casting his vote, the stockholder has no right to interfere in the management of his corporation. There are, however, certain limitations to the control which the majority of the stockholders may exercise over the affairs of a corporation. The corporate powers can be exercised by the majority only to accomplish the objects to obtain which the corporation was originally called into existence,

and the majority must act in good faith. They cannot manage the company for their own profit and against the interests of the minority. For example, one corporation cannot purchase a majority of the stock of a competitor, and then close the competitor's plant.

Remedies.—The remedy of a minority stockholder to prevent injury to his rights by the majority is an appeal to a court of equity, which will, on cause being shown, enjoin the corporation controlled by a majority of its stock from doing the unlawful acts complained of. A single stockholder may, in this way, restrain the corporation from the doing of acts which lie outside the powers of the corporation. Minority stockholders may also claim the protection of the courts against any unlawful act which tends to impair the value of their stock.

The stockholder may enter a court of equity to protect his own rights. He has, however, as a rule, no standing in a court of law where he may seek to protect the rights of the corporation. Even though the stockholder may own all the stock of a company he cannot bring a suit to recover for the corporation unless he has first called upon the directors to bring the suit, and they have refused, or unless they can show that the personal interest of the directors is involved on the other side. In such a case, a stockholder may attain a standing in a court of law, where, however, he must sue on behalf of all his fellow stockholders.

The stockholder can share in profits only after the directors have declared a dividend out of these profits. No matter how large the accumulated profits of the company may be, minority stockholders cannot compel the directors to declare a dividend, so long as they are acting honestly and within the limits of the trust reposed in them. If, however, fraud or bad faith, for example, in withholding dividends where profits are used to pay excessive salaries, be established, the stockholder can obtain relief from a court of equity.

In all such cases where a stockholder desires the court to inquire into the management of a company, it is important that he act promptly. He cannot "sleep upon his rights." Especially will the court refuse him relief if it appears that he has delayed his action in the hope that the act complained of might work to his own advantage.

Liabilities.—Over against the rights of the stockholder stand his liabilities. The stockholder is liable to the corporation and indirectly to creditors, when his stock is not fully paid, up to the amount remaining unpaid upon his stock. When he has paid the face or par value of his shares his liability to the company ceases. Any balance, however, which may be due upon his stock represents a part of the assets of the corporation which passes to the creditors, with a right of action against the stockholders, in the event of bankruptcy. In case it can be shown that the stock of a com-

pany has been issued for property or services at excessive valuations, and if the stock is found in the possession of the beneficiaries of this fraud upon the creditors, who have a right in dealing with the company to assume that its stock has been paid in full, the stockholder is liable to the creditors for his proportionate part of the difference between the par value of the stock and the fair value of the property or services given for it.

This is the common law liability of stockholders. By statute law it may be increased and special liabilities can be added. Stockholders in national banks, for example, are liable to creditors in an additional sum equal to the par value of the stock. In many states, stockholders are liable for wages due and materials furnished to the corporation. Before enforcing this liability of the stockholder, the creditor must first have exhausted all his remedies against the corporation. The liability of the stockholder as long as the corporation remains in existence, is secondary to the liability of the corporation.

See CORPORATION CHARTERS; CORPORATION, PUBLIC; HOLDING COMPANIES; PUBLICITY OF CORPORATE ACCOUNTS; REASONABLENESS IN RESTRAINT OF TRADE; STOCKS AND BONDS.

References: *Am. and English Encyclopedia of Law* (1903), ch. xxiii, 582-698, 748-775; W. W. Cook, *Treatise on Stock and Stockholders, Bonds, Mortgages and General Corporation Law* (3d ed., 1894), 199-243, 561-641, 673-701; J. J. Sullivan, *American Corporations* (1910); R. S. Harvey, *Rights of the Minority Stockholder* (1909); D. MacG. Means, "Protection of Minority Stockholders" in *Nation*, XXIV (1902), 24; A. W. Machen, Jr., *Treatise on the Modern Law of Corporation* (1908), 926-1086. E. S. MEAD.

STOCK-JOBGING. Stock-jobbing is a term applied to gambling contracts carried on under the guise of legitimate business, in which the real intent of both parties is merely to speculate in the rise and fall of prices, and the property is not to be delivered, but one party is to pay to the other the difference between the contract price and the market price. In American legislation stock-jobbing is better known as "dealing in futures," "bucket-shopping," "speculating in stocks," "buying and selling on margin," "buying at option," etc., and the places in which transactions of this sort are regularly carried on as a business are usually called "bucket-shops" (*see*).

Thirty-one states have passed legislation prohibiting stock-jobbing; Louisiana, in its constitution, declares it to be against public policy and directs the legislature to pass prohibitory legislation; and West Virginia permits it only by licensed corporations. New York and Pennsylvania have repealed and reenacted statutes prohibiting stock-jobbing.

The statutes are substantially all alike. They usually include under the provisions of the law the mere attempt to make such contracts. The persons who are held liable include individuals, corporations, associations, etc., whether acting in their own rights or as officers, agents, servants, correspondents or representatives of another. The laws also apply to those who conduct bucket-shops, and, in many instances, to those who rent premises for such purposes or who intentionally furnish information for such purposes by mail, telephone, telegraph or advertising. In Illinois those who forestall the market by spreading false rumors to influence the price of commodities, or corner or attempt to corner the market are also held liable.

To protect legitimate business involving future delivery, most states require a record to be kept of the parties to the contract and such other proofs of sale as will insure future delivery.

With the exception of New York, where it is considered a felony, the offence is regarded as a misdemeanor, and the punishment is a fine, imprisonment, or both at the discretion of the court. Several states also provide that when a corporation is convicted a second time of such an offense it shall forfeit its charter. In general these laws are poorly executed. "Open brokers' offices" are carried on in many cities which are practically open houses for gambling in the rise and fall of securities. Without recourse to such places anyone who has money or credit at a bank may open a speculative account with a broker, which is very hard to separate from legitimate business.

See EXCHANGES, BUSINESS; FUTURES, DEALING IN; GAMBLING; PUBLIC MORALS, CARE FOR; SECURITIES, FEDERAL COMMISSION ON.

References: J. R. Dos Passos, *Treatise on the Law of Stock Brokers and Stock Exchanges* (1882), ch. viii; S. S. Pratt, *The Work of Wall Street* (1910); Horace White et al, *Rep. of Committee on Speculation in Securities and Commodities* (1909); H. C. Emery, *Speculation on the Stock and Produce Exchanges of the U. S.* (1896), ch. vi. H. W. NUDD.

STOCKS AND BONDS. A bond is a note made by a company, corporation or government, promising to pay a certain amount of money on a specified date, at a designated rate of interest. A share of stock is the certificate that a certain sum has been paid into the fund from which the business of a company or corporation is to be transacted and that the holder of the stock has a certain part in the ownership of the property.

The primary reasons for governmental regulation of stocks and bonds are as follows: (1) a close relation exists between the amount of stocks and bonds issued by quasi-public corporations and the rates charged and standards of service given—the amount of securities is-

sued has often been a factor in determining the fair valuation upon which reasonable rates must be allowed; (2) regulation is necessary to give protection to investors.

See CORPORATION CHARTERS; CORPORATION, PUBLIC; EXCHANGES, BUSINESS; PUBLICITY OF CORPORATE ACCOUNTS; SECURITIES, FEDERAL COMMISSION ON.

References: E. S. Mead, *Corporation Finance* (1910), *Trust Finance* (1903); Lawrence Chamberlain, *Principles of Bond Investment* (1911); S. S. Pratt, *Work of Wall Street* (1903); W. Z. Ripley, "Later History of the Bond Conversion" in his *Trusts, Pools and Corporations* (1905). CLYDE L. KING.

STORE PAY. This is a method of wage payment in which wages, in whole or in part, are paid in merchandise obtainable at stores in which the employers are financially interested; often employees who do not trade at the employer's store will be discharged. See LABOR LAWS, CONTRACTING OUT OF; MINE LEGISLATION FOR LABORERS; WAGES, REGULATION OF. J. R. C.

STORY, JOSEPH. Joseph Story (1779-1845), associate justice of the Supreme Court of the United States, was born at Marblehead, Mass., September 18, 1779. In 1801 he was admitted to the bar, and began practice at Salem. In 1805 he was elected to the general court as a Republican, and was made speaker. In 1808-09 he was a member of Congress, having been elected to fill a vacancy. In 1811 he was appointed by Madison an associate justice of the Supreme Court, and held the office until his death. Next to Marshall, he had the largest influence in shaping the remarkable series of decisions which, particularly after 1812, laid the foundations of American constitutional law; and he was mainly responsible for the development of admiralty law as a branch of federal jurisprudence. From 1829 onward he was also professor of law at Harvard. He died at Cambridge, Mass., September 10, 1845. Of his numerous law books, many of them still regarded as standard treatises, the best known is his *Commentaries on the Constitution* (3 vols., 1833, 5th ed., M. M. Bigelow, Ed., 2 vols., 1891). See LAW, CONSTITUTIONAL, AMERICAN; SUPREME COURT OF THE UNITED STATES. References: W. W. Story, *Life and Letters of Joseph Story* (1851); H. L. Carson, *Supreme Court of the U. S.* (2 vols., 1892). W. MACD.

STRAIGHT DEMOCRATS. The nomination by the Democratic national convention at Baltimore, July 9, 1872, as candidates for President and Vice-President, of Horace Greeley of New York and B. Gratz Brown of Missouri, both of whom had already been nominated by the Liberal Republicans (*see*), caused great dissatisfaction within the Democratic party,

and was widely denounced as "a cowardly surrender of principle for the sake of a possible victory." In response to a call for a "straight" or "straight-out" Democratic ticket, a convention met at Louisville, Kentucky, September 3. The brief platform, after declaring that "having been betrayed at Baltimore into a false creed and a false leadership by the convention, we repudiate both," asserted the "time-honored principles" of state rights and strict construction, and added resolutions opposing class legislation and the gift of public lands to corporations, and in favor of "a judicious tariff for revenues purposes only." Charles O'Connor of New York and John Quincy Adams of Massachusetts were nominated for President and Vice-President respectively. O'Connor declined, and Adams refused to stand without him. The ticket polled 29,489 votes, the larger number coming from New York, Georgia, Texas, and the states of the central west. See DEMOCRATIC PARTY. Reference: E. Stanwood, *Hist. of the Presidency* (1898), 348. W. MACD.

STRAIGHT TICKET. A term applied to the regular party ticket, containing all the party candidates, voted *en bloc*—without "scratching"—by the elector. See SCRATCHING. O. C. H.

STRAUS, OSCAR SOLOMON. Oscar S. Straus (1850—) was born at Otterberg, Rhenish Bavaria, December 23, 1850. He came to the United States in 1854, and lived in Georgia until 1865, when he removed to New York City. He practiced law from 1873 to 1881, and then engaged in business. From 1887 to 1889 he was minister to Turkey, and in 1898 was a second time appointed to the post, holding the office until 1901. In 1902 he was appointed a member of the permanent court of arbitration at The Hague. From 1907 to 1909 he was Secretary of Commerce and Labor. He was for some time president of the New York board of trade and transportation, and is a vice-president of the National Civic Federation. In 1912 he was the Progressive candidate for governor in New York State. He is the author of *Origin of the Republican Form of Government in the U. S.* (1886), *Roger Williams, the Pioneer of Religious Liberty* (1894), *Development of Religious Liberty in the United States* (1896), and other works. See NEAR EAST, DIPLOMATIC RELATIONS WITH. References: J. W. Foster, *Arbitration and the Hague Court* (1904); Secretary of Commerce and Labor, *Annual Reports*, 1907–1909. W. MACD.

STRAW BAIL. Worthless bail given by financially irresponsible sureties. The name is said to have been derived from the old practice of professional sureties wearing straw about their clothes, to attract the attention of those seeking bail. H. M. B.

STRAW VOTE. Straw votes as a means of learning public opinion are particularly common in exciting presidential campaigns. The straw vote is employed also by enterprising newspapers to determine the trend of public opinion, *e. g.*, the Chicago Tribune's poll on the Payne-Aldrich Tariff bill and on the leadership of Speaker Cannon. Wherever men assemble—at industrial gatherings, county fairs, church bazaars and on railroad trains—informal votes are sometimes taken by enthusiasts who, from a large number of such polls, get a fair idea of the prospects for the coming election. See POLLS; PRELIMINARY CANVASS. Reference: M. Ostrogorski, *Democracy and Party System* (1910), 203. J. M.

STREET CLEANING. See STREETS.

STREET COMMISSIONS AND COMMISSIONERS. In many cities the supervision of streets is vested in an officer having the title of commissioner of streets, or some title equivalent thereto, but the jurisdiction and duties attached to the position vary widely in different cities. In Boston the "Superintendent of Streets" has jurisdiction over the construction and maintenance of pavements, the cleaning and sprinkling of the streets, the disposal of refuse, the city sewerage, the public lighting, and the municipal ferries. He is thus one of the most important executive officers of the city.

In New York and Philadelphia and many other cities no such distinct office exists, the duties appropriate to the position being performed by bureau heads of the department of public works, or some equivalent body. New York, however, has a "Commissioner of Street Cleaning" who has control of cleaning the streets and disposing of the city wastes other than sewage. In other cities the duties of the commissioner or superintendent of streets does not extend beyond the keeping of the streets in repair.

It can hardly be said, therefore, that such an office is an established accompaniment of municipal government in this country, or that where it exists there is any uniformity in the powers and duties of its occupant.

This is rather surprising since the department of street and pavement construction and maintenance, the general care of the streets, and matters connected directly therewith, is not only one of the most important but one of the most clearly defined and readily differentiated functions of municipal government.

A department of streets, under the control of a competent commissioner or superintendent would appropriately have jurisdiction over all the established streets and alleys of the city, embracing construction and maintenance, street cleaning, street obstructions, and the occupation of highways by quasi-public corporations, including operations for the construc-

tion and repair of underground street structures.

The concentration of the control and management of the streets into a separate department under a single competent official would be likely greatly to simplify and improve street conditions in most American cities.

See BRIDGES, PUBLIC; CITY PLANNING; ROADS; STREETS. SAMUEL WHINERY.

STREET PAVEMENTS. Materials.—In European cities the kind and qualities of street pavement adopted for use are the result of long experience, modified by local conditions and the availability of materials. At the present time some form of stone-block paving seems to be most in favor, though asphalt and wood-block are very popular and extensively used.

In American cities street paving has hardly yet passed the experimental stage, and many new kinds of pavement are being proposed and tried. Some form of stone-block pavement is most largely used, but with much lack of uniformity in the quality of the pavements. Sheet asphalt pavements are extensively used in most cities; and quite recently, creosoted wood-block pavement has been laid in a number of cities. Brick pavement is used very largely in the interior cities; and some form of bituminous concrete has also been used on quite a large scale. Many other kinds and qualities of pavement have been tried in comparatively small areas. Broken stone road surfaces (macadam) are extensively used on city and town streets of moderate travel, though not usually classed as pavement.

In attempting to compare the merits of the principal pavements in use they may be ranked, with reference to certain desirable qualities as follows: in low first cost, macadam, asphalt, wood-block, granite-block; in durability, granite-block, asphalt, wood-block, brick, macadam; in resistance to hauling loads over them, asphalt, wood-block, brick, granite-block, macadam; in secure foothold for horses, macadam, granite-block, brick, asphalt, wood-block; in noiselessness under travel, wood-block, macadam, asphalt, brick, granite-block.

Attempts to assign a general weight-rating to these and several other properties of the different pavements and thus to deduce their comparative merits are interesting and useful, but not always applicable to individual streets.

Conditions of the Problem.—The question of the best pavement for any given street depends so largely upon the conditions existing on that street that a separate study in each case is necessary. If we disregard certain qualities, such as comfort and convenience in use, and aesthetic considerations, the question may be treated as a purely economic one, and becomes, what kind of pavement under given conditions will yield the largest returns for the money invested in it? Because of the many

varying conditions involved, this is a complicated problem which can only be solved properly by the expert engineer.

In most of our cities more money is expended for and invested in street pavements than in any other public utility; and because of unwise selection of the kinds of pavement to be used and lax methods of construction and maintenance, it may confidently be stated that a large percentage of this money is wasted. This waste may be expected to continue until street paving shall be dealt with as a purely engineering and economic problem, the same as municipal water supply, sewerage and other municipal work.

Distribution of Cost.—In the great majority of American cities the cost of the first pavement laid on a street is specially assessed against the property benefitted, but when repavement is necessary the whole cost is paid by the corporation. This practice may and usually does work to the disadvantage of the municipality where the property owners are allowed to designate the kind of pavement to be used. The cheapest possible construction will be chosen for the first pavement, without regard to its service or durability, and, when repaving becomes necessary in a very few years, the cost of a permanent pavement is saddled upon the corporation at large. The wisdom and justice of paying for repaving wholly out of the general funds is questionable. If it is right to assess the cost of any pavement against benefitted property owners, it would seem to be equally right to assess at least a part of the cost of maintaining the street in well paved condition. The cost of paving and repaving a street subjected almost wholly to local travel and for the benefit of local property owners may very properly be wholly assessed against these property owners, while in the case of main thoroughfares and purely business streets, used largely by the public at large, the cost of paving may be mainly met from the public funds.

The object in the case of any street should be a fair division of the cost between the persons specially benefitted and the general public. To accomplish this presupposes some competent authority to make the proper distribution of cost, and this authority might be delegated, as it is now to a limited extent in some cities, to a board of assessment, appointed by the courts or in some other manner that would insure the selection of high-class, disinterested men who would not be subject to improper personal or political influences.

Taxation for Pavements.—The municipal funds required to pay for street paving are provided either by taxation in the usual manner or by the sale of bonds. The first named method is preferable in most cases. Pavements are usually not long lived, and the time when they will require renewal cannot definitely be predicted. Where bonds are issued for any

municipal improvement they should obviously mature and be paid coincident with, or not later than the end of the useful life of the improvement. If bonds running for thirty years are issued to pay for a pavement that will require renewal in fifteen years, and additional bonds are issued for such renewal, whenever required, the indebtedness of the municipality will in time, greatly exceed the existing value of the pavements, taxation for interest may become excessive and unjust, and the municipal debt be unduly inflated.

The cost of maintaining pavements during their useful life is usually met from the general funds of the corporation. The useful life of any pavement is affected materially by the degree in which it is kept in proper repair, and it is important for this reason as well as to supply satisfactory service to the public, that all repairs shall be promptly made when necessary.

Street paving has not received the attention it merits in American cities. Although other departments of municipal work such as water supply and sewerage have been developed carefully by study and experimental research along scientific lines, street paving seems to be regarded as unworthy of or unamenable to like systematic and thorough investigation and treatment. There is here a wide and promising field for the municipal engineer and economist.

See PAVEMENTS; ROADS; STREET COMMISSIONS AND COMMISSIONERS; STREETS.

References: G. W. Tillson, *Street Paving and Paving Materials* (1900); I. O. Baker, *Treatise on Roads and Pavements* (1903); C. Richardson, *Modern Asphalt Pavement* (2d ed., 1908); F. P. Spalding, *Text Book in Roads and Pavements* (3d ed., 1908); S. Whinery, *Boston Finance Commission Report*, IV (1909), 194.

SAMUEL WHINERY.

STREET RAILROADS. See RAILROADS, STREET.

STREETS. In the opinion of a growing number of municipal experts, the problems of the streets are the greatest material problems of the city. Here, by the coöperation of the whole community, an open road, a free way, a channel for traffic and transportation is maintained for the use of all upon equal terms. Besides the work of making and improving the street itself, and the work attendant upon the service of public utilities upon, over and under the street, it must be borne in mind that the police department is mainly a street department, and that the fire department is dependent upon the street for its efficiency.

Functions of the Street.—It is the function of a city to protect a citizen in the street; to provide for physical safety; to provide for the safety of property, and to provide for moral safety. The most important public agen-

cies for the accomplishing of these functions are bureaus of police, fire, building inspection, electricity, surveys, highways, street cleaning, lighting, health and charities. Among the private agencies are hospitals, dispensaries and citizen associations and public spirited individuals. In addition, many public service corporations discharge important functions in relation to the streets.

Public Rights.—Public rights in streets were defined in a recent decision of the justices of the Massachusetts supreme judicial court. They held that the public acquires an easement in the land of a highway, including a right to occupy the same for travel and communication of persons and the reasonable movement of property. Subject to this right, the owner of the fee retains his ownership of every valuable interest, and he may use it in any way not interfering with the rights of the public. The legislature may enlarge or limit public rights acquired in highways, having due regard to private rights, and may confer on municipalities the power to erect structures across public streets, or permit individuals to erect structures bridging public streets: but may not, without the consent of the abutting owners, take away any right, except for a public use and on compensation made. The legislature may confer on a municipality the power to grant permits to individuals to erect structures which will bridge a public street connecting premises owned by the individual on both sides of the street, subject to the payment of rent to the municipality if so stipulated in the permit.

As against the easement acquired by the public for travel and communication an abutting owner has the right to have the street open for light and air, so long as there are no uses affecting his enjoyment to which the public desires to put the street. Where the legislature authorizes the imposition of an additional burden on property abutting on a street for a different use, which will interfere with the abutting owners' enjoyment of light and air, he is entitled to compensation. One has no right to have adjacent premises remain open for admission of light and air (see *in re Opinion of the Justices*, 94 N. E. R. 849). While this decision is based on the laws and constitution of a single state, Massachusetts, it may be regarded as a fair statement of the law as it holds generally throughout all the country.

Organization of Street Bureaus.—There is no uniformity of organization of the bureaus dealing with the street. Except in commission governed cities, where most of the duties pertaining to the streets are assigned to one commissioner, there is little recognition of their unity and importance. As a rule the functions are widely scattered although in some cities, like Philadelphia and Chicago, there is a tendency to recognize the need for coördination.

STREETS

Nor is there any uniform practice in American cities in the manner of selecting the heads of the street bureaus.

Street Planning and Sidewalks.—The importance of streets and the necessity of properly laying them out may be gathered from the fact that from a fifth to two-fifths of the total area of cities is devoted to streets, rising to more than half in the city of Washington. The considerations entering into the determination of street width include: (1) fixing roadway units for vehicles; (2) adjoining sidewalk units required for pedestrians; (3) classification of the streets according to traffic requirements, or other functions they are to serve; (4) an estimate of the present and future traffic of the streets, the width required to meet that traffic, and then the standardization of that width. The width of vehicles and the load are likely to be standardized by law so that definite figures will be available. Various methods have been devised and followed for determining the width of sidewalks. The most customary is to make the sidewalks some fixed proportion of the roadway, in some cases one-half, in others one-third, the latter representing the most frequent practice.

Classification.—Classifying the streets of a city according to the traffic requirements or the other functions that they are to serve is a fundamental requirement of any attempt to standardize street widths and is so recognized in European countries. The London Traffic Commission has made five divisions, as follows:

Main avenues	140 feet
First class arterial streets	100 feet
Second class streets	80 feet
Third class streets	60 feet
Fourth class streets	40 feet

The standard classification for German cities of the second size, cities like Leipzig and Frankfort, is as follows:

Main thoroughfares	85 to 118 feet
Secondary thoroughfares	50 to 80 feet
Local streets	35 to 47 feet

In different American cities the width of streets varies greatly. There are very few that have adopted standards. Probably the best classification is that of Washington, D. C., which is as follows:

Main thoroughfares	160 feet
Secondary thoroughfares	120 feet
Local streets	60 to 90 feet

To determine such classification, however, requires an estimate of the recent and future traffic requirements of the streets of any given class. The better practice is to decide what traffic capacity in roadway and sidewalk the street should provide for, thus determining which class it falls in: and then, apply the unit of measurement adopted for car lines, for vehicles, for pedestrians, for trees, etc. Here are three illustrations of this method:

I. An average main thoroughfare is to have:	
A double-track car line	20 feet
6 lines of vehicles, 3 on each side of tracks, 8 feet each	48 feet
20 lines of pedestrians, 10 lines on each of the two sidewalks, 2 feet each	40 feet
Total	108 feet

II. An average secondary thoroughfare is to have:	
A double-track car line	20 feet
4 lines of vehicles, 2 on each side of tracks, 8 feet each	32 feet
16 lines of pedestrians, 8 lines on each of the two sidewalks, 2 feet each	32 feet
Total	84 feet

III. An average local street is to have:	
Roadway for 3 lines of vehicles, 8 feet each	24 feet
12 lines of pedestrians, 6 lines on each of the two sidewalks, 2 feet each	24 feet
Total for an average local street ..	48 feet

House Numbering.—The numbering of houses along the street is a municipal function which would not occur to the average citizen as being such. It cannot be left to the owners, however, but must be attended to by some one authorized by the municipality.

Street Signs.—Street signs designating the names of streets are also an important item of the street furnishings, much neglected in many cities. In the large cities even the residents are only generally familiar with those streets which they frequent daily; in the small cities signs are desirable for the direction of visitors and new comers.

Beautifying the Streets.—Usefulness must be the first test of street furniture and fixtures, but it should not be the only one. There is no reason why all the various structures which are demanded on modern streets by the necessities of the case should not be so constructed as to appeal to the eye and develop the love for the beautiful, as well as serve the immediate end for which they are designed.

Street Cleaning.—The condition of the surface of streets not only greatly interests all those who live in cities, but frequently invites attacks upon city officers for alleged inefficiency and incompetency in keeping them cleaned. It is the opinion of experts, on close investigation, that the true cause of the difficulty must be sought elsewhere.

Physical Conditions.—To have a clean street surface the pavement must be of a kind and must have a sufficiently smooth surface to allow of effective and easy cleaning. Smooth pavements (sheet or block asphalt) of accurately cut blocks of granite or other stone, of hard and tough brick, of wood, all set on a firm foundation, are much easier and cheaper to clean effectively than the ordinary rough-dressed stone blocks, cobble or rubble pavements, or almost any pavement placed on an infirm foundation, such as is still to be found in many American cities.

Political Conditions.—The care of pavements, as regards repairs and cleansing, should be

entirely in the hands of a permanent organization of well trained and experienced men, especially educated in the specific duties involved, continuously encouraged by rewards for good and better work: rather than discouraged by unwarranted criticism, or discharged without good cause.

Financial Conditions.—To maintain clean streets requires sufficient funds to enable the work to be done thoroughly. Necessary appropriations to do thorough work are probably never refused by taxpayers, if the public feels that clean streets can and will be secured.

Cleaning city streets is at once the oldest and least developed branch of public health work. There is no undertaking concerning whose results there is such universal dissatisfaction, or concerning whose correct principles so little is generally known. Many persons consider scavenging to be a disreputable kind of undertaking, and instinctively shrink from even discussing it. Under these circumstances progress is slow. The New England Conference on Street Cleaning, by placing the subject on the plane of dignified debate, promises to do much to remove these prejudices, and to facilitate a better understanding of how cities can be kept clean.

See BETTERMENTS, ASSESSMENTS FOR: CITY PLANNING; EMINENT DOMAIN; HEALTH, PUBLIC REGULATION OF; PAVEMENTS; RAILROADS, STREET; RAPID TRANSIT IN CITIES.

References: C. B. Crane, *Clean Streets for Chicago* (1907); R. T. Fox, *Report on Street Cleaning, Street Watering and Sanitary Departments of Boston* (1907); "The Street Cleaning Problem in San Francisco" in *Report to the Merchants' Assoc.* (1909); T. H. Boorman, *Asphalts, Their Sources and Utilizations* (1908); A. T. Byrne and A. E. Phillips, *Highway Construction* (1908); F. P. Spalding, *Text Book on Roads and Pavement* (1908); H. P. Boulnois, *Dirty Dustbins and Sloppy Streets* (1881).
CLINTON ROGERS WOODRUFF.

STRICT CONSTRUCTION. See CONSTRUCTION AND INTERPRETATION.

STRIKE, LEGISLATIVE. A phrase applied to the introduction into a legislature of a bill hostile to some financial interest, for the purpose of extorting money or personal advantage from the interest whose welfare demands that the matter be dropped. See BLACK HORSE CAVALRY; CORRUPTION, LEGISLATIVE.

O. C. H.

STRIKES

Definition.—Strikes are concerted cessations of work by wage-earners, designed to coerce their employers into compliance with their demands, during which efforts are made to keep other workmen from filling the places temporarily vacated. The improvement or the maintenance of the existing conditions of employment is the usual question at issue in strikes, though many are called to secure recognition of the unions, and many are sympathetic strikes. The public always associates strikes with trade unions, but about a third of the strikes of the last thirty years were started by men belonging to no labor organization. Generally labor unions later have entered the field to direct and support these strikes of the unorganized.

The strikes begun by labor organizations generally find their initiative in the local unions directly involved. In many unions the vote of more than a majority of the members of the locals particularly affected is required to authorize any strike even if not local. To secure financial support from the general union treasury, strikes must have the sanction, also, of the officers of the national organization. Only in the building trades do the local union officials have the power to call strikes on their own initiative.

Strikes duly authorized are generally conducted under the direction of a representative of the national union, cooperating with

committees of the local directly involved.

Strike Benefits.—To the men on strike, weekly payments of a certain amount are made, and sometimes milk, clothing and groceries are furnished directly. Workmen not belonging to the union, if they join in the strike, receive the same benefits as do the union members.

Unions are able to pay these strike benefits because they collect funds for these emergencies in times of peace, and during strikes, unions frequently levy special assessments for their support upon the members who are employed. Contributions are also solicited from other unions and from the general public. When unions can no longer financially support a strike, it is almost sure to collapse.

Strike-Breakers.—In most strikes employers are not content simply to close their factories. To defeat the striking workmen in their demands, it is necessary to show that the factory can be operated without them. This necessitates getting new workmen, either from among the unemployed, or from professional strike breakers. In large cities, agencies exist which stand ready to supply strike-breakers, and the armed guards necessary for their protection (see PINKERTON MEN; SCAB).

To the strikers it is all important that their places shall not be filled by other workmen. To turn back those whom the employer has secured, the strikers institute picketing (see). Peaceful picketing is frequently effective in in-

ducing workmen who have been secured by the employer through ignorance of the existence of a strike to turn back, sometimes by paying their transportation expenses.

Violence in Strikes.—When peaceful methods fail to prevent the employer's filling their places, strikers resort at times to acts of violence. Non-union workmen are threatened and even assaulted, and efforts are made to destroy the employer's property. In the United States protection to employers against acts of violence has been far less efficient than in Europe. Because of the political power of the wage-earners, local officials have sometimes been unwilling to prosecute strikers who violate the law. Even where the state militia has been called in, violence has not always been checked. Upon only a few occasions have federal troops figured in strikes (*see ORDER, MAINTENANCE OF; RIOTS, SUPPRESSION OF*).

Because of the inadequacy of police protection, employers frequently hire armed guards to conduct workmen to and from the factory to their lodging-houses, and to protect them while at work. Sometimes these squads have been given commissions as deputy sheriffs, with power to make arrests.

Sympathetic Strikes and Boycotts.—Workmen in the same industry by continuing to work help to defeat the men who are out on strike. Not infrequently the employer transfers a part of his orders to other factories. Sympathetic strikes in these factories are then called by the union. In a sympathetic strike, strictly speaking, the sympathising union strikes to help another union, but without a direct grievance or demand of its own. The sympathetic strikes of most common occurrence take place in the building trades. The members of as many as twenty unions are frequently employed upon the same building; only through sympathetic strikes can these act together to bring work to a standstill. All told, less than five per cent of all strikes are sympathetic.

Labor union men in other industries seldom give aid to strikers through sympathetic strikes. The chief manner in which they aid strikes is through their refusal to purchase from dealers the products manufactured by the employers involved in the strike and by their contributions through their unions. Almost all trade union boycotts have been inaugurated to assist strikes, but they are of real assistance only in those industries where a considerable portion of the product is consumed by union men (*see BOYCOTTS; UNFAIR LIST*).

How Strikes Are Ended.—Most strikes end within a comparatively short time, many lasting but a single day. Usually some sort of an adjustment is reached between the strikers and the employer, sometimes through reference of the disputed questions to a neutral board of arbitration. More frequently the adjustment is secured through direct negotiations between the union and the employer. Quite often

the employer refuses to recognize any one in the negotiations other than his own employees. If the union, however, is sufficiently strong, it insists that the employer shall make a trade agreement with it, to govern the conditions of employment which are to prevail in the future. Observance of such trade agreements, since they are unenforceable at law, depends upon the strength of the organization on both sides (*see LABOR CONTRACTS*).

If the employer wins a complete victory, he refuses to recognize the strikers as a body, but usually reemploys most of them. The union leaders are likely not to get back their old positions, and may be prevented from getting work elsewhere (*see BLACKLISTING*).

Effect of Strikes.—Of the strikes undertaken in the last thirty years, by trade unions, one-half have been won by laborers, and one-third by employers, the rest were compromised. A majority of the strikes not called by labor organizations, on the other hand, have been won by the employers.

Strikers have always been more successful in times of prosperity than in those of depression. While demand is keen, employers can ill afford to have their factories closed, and at such times there are few unemployed to take the places of strikers. Slack times, on the other hand, make it difficult for strikers to win, for factories may be closed without much injury to the employers, and other workmen may easily be had.

A satisfactory net balance of gains and losses sustained through strikes has never been struck. John Mitchell has computed that the average time lost through strikes does not amount to one day per year for all workmen. The net losses directly traceable to strikes are equal to three cents per year for each inhabitant of the country. That strikes make employers more ready to grant the demands of the laboring men seems certain. For every advance in wages secured through strikes more than a dozen are won without them, in many cases out of fear of strikes.

History of Strikes.—Not until the interests of the masters had become distinctly different from those of their workmen, could strikes play any real rôle in industry. In most industries this stage was not reached until the nineteenth century was well advanced. The first epidemic of strikes throughout the country occurred in 1827-29. Prior to 1881 about 1500 strikes are known to have taken place. Official annual statistics since 1881 show that the number of strikes has been increasing, but at a less rapid rate than has the population.

Statistics show, also, that the importance of wage demands as a cause of strikes has been slowly declining. Within the last decade the question of the recognition of the union and of union rules has been responsible for as many strikes as have disputes over wages.

Strike Legislation.—During the first decades of the nineteenth century workmen who went out upon strikes were in some cases convicted of conspiracy to raise their wages, which was an offense in common law. When juries in the thirties refused to convict, this form of prosecution for striking ceased. Not until after the Civil War, however, were statutes enacted expressly legalizing strikes. Only a few states ever adopted such laws; and most of them applied only to strikes directly involving questions of wages or hours of labor.

During the sixties most industrial states enacted laws prohibiting intimidation in labor controversies. In the eighties some of them made it criminal for men to participate in combinations with the purpose primarily to injure employers or non-union workmen. At the same time a few states declared boycotting to be a criminal offense. More recently Alabama and Colorado enacted laws making picketing illegal.

On the other hand a number of states have enacted laws declaring peaceful picketing to be lawful. Maryland, California, and Oklahoma have even gone so far as to provide that acts done by labor combinations shall not be deemed criminal unless they are unlawful when undertaken by individuals.

Statute law has had, however, but a slight importance in determining the legality of the activities of strikers. Such restrictions as it has placed upon their conduct have usually been nothing more than restatements of the common law. The few laws enacted to remove common law restrictions have been so construed by the courts as to render them almost meaningless.

Court Decisions.—Court decisions upon the legality of the activities of strikers have often been contradictory. As to combinations to strike, the view now accepted in perhaps the majority of jurisdictions is that their legality depends upon the objects they aim to accomplish, and upon the means they employ to gain these objects. It is an illegal object primarily to conduct strikes to injure employers or non-union workmen. Illegal means are employed in furthering a strike when resort is had to "intimidation" or "coercion."

On passing upon the issue of fact, whether the aim of strikers has been primarily to advance their own interests, or to do injury to others, many courts have failed to discover the former when questions of wages or hours of labor were not directly involved. The bulk of authority is in favor of the view that strikes to gain a closed shop are unlawful. Similarly all forms of sympathetic strikes have been held illegal in most of the cases which have come up. Some decisions, on the other hand, hold that strikes are never illegal.

As to what constitutes "intimidation" and "coercion," also, much uncertainty exists. All cases agree that these terms cover all actions

which place the average person in fear of physical violence. Other decisions go much beyond this, and assert that employers or non-union workmen are "intimidated" whenever they are compelled to do something they do not intend to do. The courts defining "intimidation" in this manner usually hold that no picketing during strikes is ever "peaceful." The more generally accepted view is that picketing is lawful if not conducted in an unreasonable manner, or by an unnecessarily large number of men.

The courts cannot directly prevent strikes for illegal purposes from being carried on. Under common law principles, and by the Thirteenth Amendment of the Constitution, persons may not be compelled to labor against their will, except in punishment for crime (*see* PEONAGE). They may leave work for any reason they see fit, even in violation of their contracts of employment, unless they are in military or sea service (*see* LABOR CONTRACTS). In some cases courts have prohibited officers of labor unions from advising or calling illegal strikes, and from making benefit payments in aid of them. The more progressive view is that such prohibitions amount to an indirect method of compelling workingmen to labor against their will.

The most effective manner in which the courts interfere in strikes is through the allowance of injunctions enjoining the strikers from committing acts of violence or intimidation (*see* INJUNCTIONS IN LABOR DISPUTES). Often these prohibitions are phrased very broadly, such as "coercing the said complainants to do any act they have a legal right to do or not to do," and "from in any manner interfering with the business of said complainants." Persons knowing of the issuance of such injunctions are bound to respect them, although they are not specifically named in them, or personally served with them. Violators of injunctions are subject to punishment for contempt of court without the jury trial.

The practical effect of the allowance of injunctions in strikes is often to discourage the rank and file of the striking workmen. The average wage-earner does not understand how he may conduct himself during a strike without violating the injunction which has been issued. The allowance of injunctions against strikers, again, usually loses them the support of public opinion since it seems to brand them as law-breakers. The legality of boycotts is treated elsewhere (*see* BOYCOTTS).

See ARBITRATION OF LABOR DISPUTES; BOYCOTTS; CONTRACT, FREEDOM OF; LABOR, HOURS OF; LOCKOUTS; MINE LEGISLATION FOR LABORERS; ORDER, MAINTENANCE OF; PICKETING; RIGHT TO LABOR; RIOTS, SUPPRESSION OF; SCAB; UNEMPLOYMENT; WAGES, REGULATION OF; and under LABOR.

References: U. S. Commissioner of Labor, *Annual Report* (1906); J. Mitchell, *Organized*

labor (1903); C. D. Wright, *Battles of Labor* (1906); T. S. Adams and H. Sumner, *Labor Problems* (1905), Bk. II, ch. vi; F. T. Carlton, *Hist. and Problems of Organized Labor* (1911), ch. vii; F. S. Hall, *Sympathetic Strikes and Sympathetic Lockouts* (1898); F. H. Cooke, *Law of Combinations, Monopolies and Labor Unions* (1909); Symposium, "Use of Injunctions in Labor Disputes" in *Amer. Acad. of Pol. and Soc. Sci., Annals* (1910), 89-141; *Am. Year Book*, 1910, 425, 530, *ibid*, 1911, 354, *ibid*, 1912, 403-05. J. R. COMMONS.

STUMP, GOING ON THE. A political campaign phrase referring to the delivery of speeches in various places during a political canvass in support of a party ticket and platform. The phrase was evidently derived from the use of stumps as platforms in newly cleared districts. O. C. H.

SUBMARINE CABLES, REGULATION OF. Navigable waters or streams of the United States are post roads. Submarine cables within the boundaries of the United States have a right of way under all navigable waters, provided they do not interfere with navigation. Their rates, routes and service are regulable by the government in the same way as telegraphs, provided they are a part of an interstate system.

From 1869 to August 1893, in the absence of congressional legislation on the subject, various Presidents and Secretaries of State held that the executive had the power to control the landing, and, incidentally to regulate the operation of foreign submarine cables in the protection of the interests of the government and its citizens. This power of the President to permit the landing of cables was called into question by Secretaries Gresham and Olney.

The matter has been adjudicated by Judge Lacombe (77 *Fed. Rep.* 496) as follows:

Without consent of the General Government no one, alien or native, has any right to establish a physical connection between the shores of this country and that of any foreign nation. Such consent may be implied as well as expressed, and whether it shall be granted or refused is a political question, and in the absence of Congressional action, would seem to fall within the province of the Executive to decide. As was intimated in the argument, it is further thought that the Executive may effectually enforce its decision without the aid of the courts.

Acting Attorney General Richards has held that the President "may either prevent the landing of a cable, if the rights entrusted to his care so demand, or permit it on conditions which will protect the interests of this Government and its citizens." These rulings are apparently on the theory that the preservation of our territorial integrity and the power to make treaties (subject to ratification by the Senate) are vested in the President.

See COMMERCE, INTERNATIONAL; POSTAL SYSTEM OF THE UNITED STATES; TELEGRAPH REGU-

LATION; WATER BOUNDARIES; WIRELESS TELEGRAPHY.

Reference: *Opinions of the Attorneys General*, XXII, 25. G. W. PIERCE.

SUBPOENA. A writ or order directed to a person, commanding him to be present and testify in a specified case pending in court. This is the subpoena *ad testificandum*. A subpoena *duces tecum*, commands the witness to bring certain books, records, or other documents with him. H. M. B.

SUBSIDIES TO PRIVATE INSTITUTIONS. The system of grants from the public treasury to private institutions prevails in different forms in a considerable number of the states of the Union. In some states, for instance Pennsylvania and Maryland, these subsidies take the place of the lump sum appropriated to such institutions. In other states, such as California and New York, appropriations are based upon the average number of inmates cared for. In some cases the allowance is based only upon those inmates who might properly become public wards.

Appropriations for private institutions reach large proportions in some states. New York appropriates about \$5,000,000 annually to institutions controlled by private boards. In California about \$450,000 per year of public money is appropriated for the support of children's institutions alone. In a number of states there is a constitutional provision forbidding appropriation of public funds for the support of any sectarian institution.

There is a wide difference of opinion among experts as to these grants. They are defended on the ground that public institutions are liable to be controlled by political influences, and to become the subjects of extravagance and graft on the one hand and of cheese-paring economy on the other hand; and the argument is sustained by many examples. The opponents of this system urge that it is in many cases a violation of the American principle of separation between church and state, that it tends to the multiplication of unnecessary institutions, and to the accumulation of many inmates, especially children, who would otherwise be properly provided for if the institution did not exist. They point to the disproportionate number of children found in the institutions in California, New York and the District of Columbia where public grants are liberal.

The special census report of 1904 on benevolent institutions shows that out of every hundred thousand people in the United States, there are 112 children in orphan asylums or children's homes. In the District of Columbia the number is 321 out of every hundred thousand population; in the state of New York 317; in the state of California 297. As a rule the highest ratios of children in orphanages are found where the subsidy system prevails.

SUBSIDIES TO SHIPPING

See CHARITIES, PUBLIC AGENCIES FOR; CHILDREN, DEPENDENT, PUBLIC CARE FOR; CHURCH AND STATE IN THE UNITED STATES; DEFECTIVE CLASSES, PUBLIC CARE FOR; POVERTY AND POOR RELIEF; RELIGIOUS LIBERTY.

References: Homer Folks, *Care of Destitute, Neglected and Delinquent Children* (1902); H. H. Hart, Ed., *Preventive Treatment of Neglected Children* (1910); A. G. Warner *Am. Charities* (1908). HASTINGS H. HART.

SUBSIDIES TO SHIPPING

Nature.—A ship subsidy is a direct grant from the national treasury, in the form of a gift or bounty, for the purpose of building up the shipping industry. It must be carefully distinguished from payments made for services rendered, such as carrying the mails: or for building a vessel in such a way as to be in readiness for use in time of war. The United States has nominally never granted subsidies, though it has granted certain subventions to mail carriers so far above the cost of that service as to be virtually subsidies.

Recent Proposals.—Many subsidy measures have been suggested, however. The first of these, known as the Hanna-Payne Bill, was introduced by Senator Hanna, December 19, 1898. This bill aimed to subsidize shipping generally, according to tonnage, speed and distance covered. It was soon evident that it could not pass and its authors did not even push it to a vote. A similar bill met a like fate in the succeeding Congress. Senator Frye introduced another subsidy bill in the 57th Congress (1901-03). This bill passed the Senate but was defeated in the House. At the suggestion of President Roosevelt, Congress, on April 28, 1904, passed an act authorizing the President to appoint a Merchant Marine Commission of five Senators and five Representatives to investigate the shipping question. The findings and testimony of this commission were later printed in three volumes. The majority of the commission advocated naval subventions to mail vessels, subsidies, and tonnage duties. The minority favored discriminating duties. All agreed that some active measures should be taken to build up the American merchant marine. The bill proposed by the majority of this commission passed the Senate February 14, 1906, but was defeated in the House. Two bills were introduced on February 13, 1907, the Gallinger Ship Subsidy Bill, and the Grosvenor Ship Subsidy Bill.

Advantages.—The leading argument advanced in favor of subsidies has been that they would rehabilitate our shipping (*see SHIP BUILDING*). To this it has been answered, that the decline has been due to economic factors which subsidies would do but little to remedy. A second argument has been that it would save the \$2,000,000 that is now annually paid to foreign carriers for transporting our freight. This argument assumes that capital invested in shipping would produce as much there as it

does in the industries in which it is at present employed. Moreover, foreign commerce is bilateral and the carriage bill is paid by those dealing with us as well as by the Americans themselves. Another argument advanced is that subsidies have been successful in building up the merchant marine of other countries and that they would have the same effect here.

Other countries have adopted numerous forms of subsidizing their shipping, chief of which are naval subventions and reserves; navigation, fishing and construction bounties; mailing and trade subsidies; pilotage and tariff refunds, and exemption from harbor duties.

British Experience.—Great Britain began her subsidizing policy in 1840, in order to have mails carried regularly to her colonies and in order to secure steamers of great power and speed, which could be transferred to use in time of war. In 60 years she paid out a total of \$283,906,000 in these so-called subsidies to certain ships complying with both these requirements. It cannot be shown, however, that Great Britain's registered tonnage of 19,418,824 tons has been entirely due to subsidies, for 95 per cent of her merchant marine has never received any subvention. It appears, therefore, that the principal return to Great Britain for subventions to 5 per cent of her merchant marine has been the carriage of mails more rapidly and more frequently than business profit would warrant, and the possible use of certain vessels in time of war.

German Experience.—Germany has never had a general subsidy pure and simple, but in 1888 a mail subvention of \$1,047,000 a year was granted for fifteen years to the North German Lloyd for a mail service to Australia, China and Japan. In 1890 another subvention of \$214,000 a year was granted a German line to German East Africa. In 1898 and 1899 both subventions were renewed, the Asiatic subvention being increased to \$1,330,000 and the East African to \$390,000. Germany has secured the political advantages accruing from better mail service, but little, if any, increase in shipping can be traced to her subvention policy.

French Experience.—France has adopted a policy of granting real subsidies to all cargo carriers with a view to building up a big foreign trade marine. The law was passed in 1881 when her tonnage was 913,000. In 1890 her tonnage was 1,104,000. During these twelve years she had paid out in subsidies, \$19,503,-

701. Her subsidies were increased in 1893, with further amendments in 1902. Despite her subsidies, however, her tonnage did not increase in proportion to the tonnage of other nations which had no subsidies.

Comparative.—The subsidies granted by certain other nations are indicated in the table below:

Country	Date	Amount
Great Britain and Colonies ----	1909	\$ 9,689,384
France -----	1908	13,423,737
Japan -----	1910	5,413,700
Italy -----	1909	3,872,917
Spain -----	1910	3,150,012
Austria-Hungary -----	1908	2,984,530
Germany -----	1908	2,301,029

Trade and the Flag.—Another argument advanced in favor of subsidies is that they would increase commerce because “trade would follow the flag.” This ignores the fact, however, that the bulk of the world’s tonnage will probably always go to the vessels that carry it cheapest. The increase in commerce due to national ownership cannot be used as a token of what increase would follow from the mere flying of American colors.

War Argument.—Another and more pointed argument is that subsidies would build up a marine which could carry our shipping in times of war abroad. It is usually frankly admitted that, were America a belligerent, a big merchant marine would only necessitate a larger navy. But where America is a neutral and a nation with which we have large commerce is engaged in war, there is a definite need for a limited independence in carriage. The question is as to whether this independent carriage cannot be secured most economically in other ways. The advocates of subsidies further urge that they will give us sailors and auxiliary cruisers in time of war. It is answered that vessels built so as to be convertible into cruisers prove to be neither the best merchant vessels in time of peace nor good ships in time of war. The opponents to subsidies urge that it would be far more economical to devote the money directly to the navy in the first place, and that, so far as service in the navy is concerned, a canal boatman can adapt himself to naval service about as readily as can the regular seaman.

Commercial Argument.—A final argument is that subsidies are a political necessity in order to have thoroughgoing mail steamship lines with our outlying possessions, especially Hawaii, Guam, the Philippines, Porto Rico and the Canal Zone, and with certain foreign countries with which we are especially desirous of building up cordial commercial relations. To this the opponents of subsidies answer that the payment for such service should be based definitely upon the cost of the service and should not be in the form of gratuities. Mail subventions would, moreover, be unavailing because not permanent; they would not remove

the causes for differences in the cost of ship operation and they would not be of assistance to shipping generally.

It seems that the future policy of the United States will be that of paying directly for services to given lines needed for political reasons and not that of subsidizing shipping generally. Subsidies cannot be justified on economic grounds. Their best justification is in political necessity.

See BOUNTIES; MAIL SUBSIDIES; SHIP BUILDING, REGULATION AND PUBLIC AID TO; SHIPPING, REGULATION OF; TRADE FOLLOWS THE FLAG.

References:W. T. Dunmore, *Ship Subsidies* (1907); Antoine Riquoir, *L'encouragement des marines marchandes. Legislation comparé* (1906); Merchant Marine Commission, *Report* (1905); *Senate Reports*, 58 Cong., 3, Sess., No. 2700 (1905); E. M. Bacon, *Ship Subsidies* (1911); R. Meeker, *Hist. of Shipping Subsidies* (1905); C. Day, *History of Commerce* (1907), 527-31.

CLYDE L. KING.

SUBSTITUTE, MILITARY. In countries where the obligation to serve for the national defense is merely nominal the acceptance of substitutes follows a levy by conscription. Universal military service allows no substitutes. Men drafted from the militia for the army of the American Revolution might furnish substitutes; and the conscriptions which began in 1862 drew many into the volunteer regiments, hired either to fill local quotas or to take the place of men whose names had been drawn. Premiums were paid for aliens and for robust boys under eighteen who were not subject to draft. Negroes were not accepted as substitutes for white men, as they had to be assigned to special regiments. The responsibility of a principal ceased as soon as his substitute was mustered in, unless fraud were detected; but substitute brokers notoriously promoted desertion. Drafted men could commute their service for \$300, and 84,966 paid commutation in 1863 and 1864; 34,913 hired substitutes, and 13,297 entered the ranks. The drafts of July and December, 1864, yielded 33,050 conscripts and 81,275 substitutes. Patriots not liable to the draft who furnished “representative recruits” numbered only 1292. **See BOUNTIES TO SOLDIERS AND SAILORS; BOUNTY-JUMPING; CONSCRIPTION AND DRAFT; ENLISTMENT, NAVAL AND MILITARY; MILITIA; VOLUNTEER.** **References:** *Massachusetts Soldiers and Sailors in the Revolutionary War* (1896), I, xxii, xxvi; U. S. War Department, *Official Records* (1880-1901), Series III, IV, 473-475, 664, 993, 1235, V, 628-635, 649-652, 722, 932.

C. G. CALKINS.

SUBTREASURY SYSTEM. Until 1840 the funds of the Federal Government were kept on deposit in banks. Prompted, however, by the embarrassments of the treasury after the panic

of 1837, in which many banks suspended specie payments, Congress in 1840 decided to change radically the system of keeping public funds. An independent or subtreasury system was established by an act in 1840. Provision was made for the construction of a treasury building in Washington, and for facilities in certain government offices in different parts of the country for the safe keeping of public moneys.

Owing to a change in parties the act was repealed in 1841, but in 1846 the principle was readopted and has continued in operation since that time. By statute of June 3, 1864, the original plan was modified so as to permit the treasury to deposit funds, other than receipts from customs, in national banks (see DEPOSIT OF PUBLIC FUNDS). In 1866, disbursing officers were permitted to deposit in banks, in places where there was no subtreasury; and in 1907 authority was also given for the deposit of customs receipts in national banks. Subtreasuries are established at Baltimore, Boston, Chicago, Cincinnati, New Orleans, New York, Philadelphia, St. Louis, and San Francisco.

The subtreasury system is a survival of mediæval finance; in England all public funds, and in France and Germany the greater part, are deposited in banks. Although government funds are secure under the American system, it has disadvantages, as large amounts of money are withdrawn from commercial use, causing at times a stringency in the money market. In so far as the Secretary of the Treasury has power to make deposits in banks, this evil is lessened, but as the power is discretionary, it gives the Secretary an unfortunate influence upon the money market.

See BANK, CENTRAL; DEPOSIT OF PUBLIC FUNDS; REVENUE, SURPLUS.

References: A. P. Andrew, "The Treasury and the Banks under Secretary Shaw" in *Quart. Journ. Econ.*, XXII (1907), 519-568; D. Kinley, *Independent Treasury of the U. S.* (1893), historical and discussion; M. S. Wildman, "Independent Treasury and the Banks" in *Am. Acad. of Pol. and Soc. Sci., Annals*, Nov., 1910.

DAVIS R. DEWEY.

SUBWAYS AND TUNNELS FOR CITY TRANSIT. The most efficient and popular form of rapid transit is the subway line. In 1912 subways were in operation in Boston, New York, Philadelphia, Berlin, Paris, London and Budapest.

The enormous cost of the modern subway line, ranging from a cost per mile of road, double track, of two million dollars to four million dollars, makes it impossible profitably to install this method of rapid transit except where extremely heavy traffic prevails. Hence private capital has generally been reluctant to embark upon this sort of enterprise.

In the United States only two subway lines—that in Philadelphia and the so-called Me-

Adoo system under the Hudson—have been constructed by private capital, the other roads having been built by the respective cities upon their corporate credit. Generally speaking, it seems probable that subways in the future will be constructed by the city and leased to the street railway company operating also the surface and elevated lines (if any) already existing. This arrangement enables the existing transportation system to use a subway in the most effective manner by diverting to it traffic from the overcrowded or indirect surface lines.

New York City, has the largest subway mileage in this country, and in 1912 embarked upon the construction of an ambitious scheme of additional subways to be built from the proceeds secured from the sale of city bonds, and to be leased for a term of fifty years to two corporations. The previous city subway, operated by the Interborough Transit Company, was leased by the city to this corporation for a period of fifty years from completion, with an option of renewal for another twenty-five years, the company agreeing to pay to the city an annual rental equal to the interest on the city's bonds issued for construction (but not for easements, etc.), and a sinking fund of 1 per cent yearly to retire the bonds. The Interborough Company was required by the lease to provide, at its own expense, the electrical equipment and rolling stock, for which up to 1912 over \$26,000,000 had been expended.

This lease was abrogated in part by the "Dual System Contracts" referred to above, entered into for the construction of the new subway lines, with the Interborough Rapid Transit Company and the New York Municipal Railroad Corporation, a company formed in the interest of the Brooklyn Rapid Transit Company. The operating contracts made with each company will run for a period of forty-nine years from January 1, 1917, and apply to all subways or extensions, whether constructed by the city or by the operating company, or by both jointly, including the existing subway. The leases for the extensions of the elevated lines run for eighty-five years from the time that the various extensions are put into operation. In the operating contracts, provisions have been made for the sharing of profits with the city after the operating companies have paid all necessary expenses and taken out the equivalent of their existing earnings on the old lines. This is to be accomplished by pooling the revenues derived from the operation of all the lines (not including the Interborough elevated railroads and their extensions) and deducting therefrom each quarter year payments to be made on account of the operator and the city on a predetermined basis, set forth in detail in the contracts.

The subway lines in Boston are constructed by the city and leased to a private company upon terms generally similar to those existing

in New York. The Philadelphia Rapid Transit Company, through a subsidiary corporation, constructed a subway line in that city under a perpetual franchise. It seems likely that the next to construct a subway will be Chicago.

See MUNICIPAL OWNERSHIP; PUBLIC SERVICE CORPORATIONS; STREET RAILROADS; SUBWAYS AND TUNNELS; and under RAILROADS.

References: A. E. Pinanski, *Street Railway Problems of Metropolitan Boston* (1908); B. J. Arnold, *Report on the Subway Problem of Chicago* (1911); *Report on the Pittsburg Transportation Problem* (1910); Ford, Bacon, and Davis, *Report on the Philadelphia Rapid Transit Company* (1911); New York Public Service Commission, *New Subways for New York—the Dual System of Rapid Transit* (1913); Transit Commissioner, City of Philadelphia, *Report* (1913).

THOMAS CONWAY, JR.

SUCCESSION DUTIES. These duties are practically synonymous with inheritance taxes. In English finance this duty refers specifically to the extension of the legacy duty in 1853 to all forms of realty and settled personalty. See TAX, INHERITANCE.

D. R. D.

SUEZ CANAL. The Suez Canal was begun in 1859 by a corporation chartered by France and was opened for traffic at the close of 1869. The waterway, which extends from Port Said on the Mediterranean to Suez at the

head of the Red Sea, is 88 nautical or 100 statute miles in length. The canal is at sea level, and its depth is at present 34.4 feet. The cost of the canal up to the time of its completion was about \$80,000,000.

The British Government owns 176,602 shares of the 400,000 shares of capital stock, which were purchased in 1875 by the Beaconsfield ministry of Khedive Ismail for \$3,976,582, and practically controls and manages the canal. The share holders have latterly received over 30 per cent per annum on par value.

The traffic of the canal has risen steadily from the beginning and continues to increase rapidly. In 1880, the canal was used by 2,026 vessels having a net tonnage of 3,057,421 tons; in 1910 by 4,533 vessels whose net tonnage was 16,581,898 tons, and in 1912 by 5,373 vessels with an aggregate net tonnage of 20,275,120. The tolls at present are 6.25 francs per net vessel ton. The passenger tolls are 10 francs for each person above 12 years and 5 francs for those 3 to 12 years old. The receipts in 1912 were 135,720,000 francs.

See CANAL DIPLOMACY; FRENCH PANAMA CANAL; HAY-PAUNCEFOTE TREATIES; NICARAUGUA CANAL POLICY; PANAMA CANAL.

References: E. R. Johnson in *Report of the Isthmian Canal Commission* (1899–1901), Appendix, *Industrial and Commercial Value of an Isthmian Canal*, chaps. xxi, xxii.

E. R. JOHNSON.

SUFFRAGE

In the English Colonies in America.—The suffrage was granted on very different terms in the several colonies; and, despite the play of nationalizing influences for four generations, substantial differences still persist. In the early days of the colonies there was uniformity in confining the suffrage to males of at least twenty-one years of age. In the northern colonies there were no discriminations as to race; but at least four of the southern colonies in the seventeenth century explicitly confined the suffrage to whites. British citizenship was taken for granted by the law of most of the colonies, but four specifically prescribed it. In New England religious tests were insisted upon as a basis for a person's being "admitted to the freedom of the colony," and immoral behaviour might lead to suspension of his voting privileges, or even to his permanent disfranchisement. Religious tests of one form or another were applied in several of the colonies. Thus, the Massachusetts Bay Colony, by a law of 1631, "to the end that the body of the freemen may be preserved of honest and good men," prescribed that "henceforth no man shall be admitted to the freedom of the Commonwealth but such as are members of some of the churches within

the limits of this jurisdiction," and despite the protests of dissenters, this test was strictly exacted for more than thirty years; and when pressure from the Crown necessitated relaxation, the alternative of a property qualification was placed so high as to apply to but few. New Haven also required that voters be members of the orthodox church. South Carolina voters were required to profess the Christian religion. Quakers were specifically excluded from the franchise in Massachusetts and Plymouth, while in other colonies they were usually debarred by their unwillingness to take oaths, and Roman Catholics were usually not allowed to vote.

The terms "freeholder," "inhabitants," etc., in early suffrage laws implied a certain permanence of residence; in some colonial laws this was plainly insisted upon, the term varying from six months to two years. In the latter part of the seventeenth century a property qualification came to be introduced in every one of the colonies. Its form and amount varied: thus, in New York voters for members of the lower branch of the legislature were required to be freeholders of an estate to the value of £40, but in New York City and Albany the suffrage was open to all free-

men; in Virginia the voter had to be a freeholder of an estate of at least fifty acres if there were no house upon it, or twenty-five acres with a house of at least twelve feet square upon it, and there were different qualifications for town-dwellers; in Massachusetts, under the charter of 1691 the voter had to be a freeholder of an estate worth at least forty shillings a year, or the owner of other property to the value of £40 sterling. A. E. McKinley says:

[In colonial days,] the potential voters seem to vary from one-sixth to one-fiftieth of the population, and the actual number of voters shows almost an equal variation; Massachusetts and Connecticut showing at times only two per cent of actual voters among the population, where perhaps sixteen per cent were qualified electors; and New York City and Virginia showing the far larger proportion of eight per cent of the population as actual voters. . . . Property qualifications, poor means of communication, large election districts, and the absence of party organization combined to make the most sharply contested elections feeble in their effects upon the community as compared with the widespread suffrage of the twentieth century.

The Federal Constitution.—In the Federal Convention, in 1787, it was soon recognized that the attempt to impose uniform suffrage qualifications for the electors of federal officers would be resented as a needless restriction upon the states, which might imperil the ratification of the Constitution. Accordingly there was adopted a provision which accepted, as a basis for federal election, all the existing variety of suffrage qualifications, and which left their future modification to the discretion of the individual states. It was prescribed that the electors of representatives in Congress should have "the qualifications requisite for electors of the most numerous branch of the state legislature" (Art. I, Sec. ii, ¶ 1). In some of the states this distinction was of significance. Four allowed all resident free-men to vote provided they paid taxes. Such was the law in North Carolina for electors of members of the lower houses, but one who would vote for state senator must own a freehold of fifty acres; in New York the voter for assemblyman must own a freehold worth £20, or pay rent of 40 shillings, and have paid taxes to the state during the previous year; but to vote for senator he must have an unencumbered freehold of the value of £100. In every one of the original states, the payment of taxes or the ownership of real or personal property varying in amount from \$33 to \$200 was required.

Extension of the Suffrage: Democratic Movement.—The first movement toward broadening the suffrage came from the democratizing influences which were signalized by Jefferson's election in 1801. In compliance with the new spirit, the states gradually shortened the terms of preliminary residence and abolished property qualifications for voting; the last disappeared in Louisiana in 1845, though the payment of a poll tax continued to be insisted upon in some states. In the middle of the

century the stress which the abolitionists laid upon the "rights of man" led in the northern states to the sweeping away of barriers to the suffrage.

Negro Suffrage.—The second great extension came in the grant of the ballot to the negro as a result of the civil war (*see FIFTEENTH AMENDMENT*). Partly on the plea that the ballot was needed by the negro to protect his own rights, and partly to secure to the Republican party control in the South, by a strange alliance of humanitarians like Sumner and politicians of the type of Thaddeus Stevens, there was forced into the Reconstruction Act, passed over the President's veto, March 2, 1867, a requirement that each of the states which had been in revolt must remain under military rule until a state convention, chosen by loyal electors without regard to race or color, should frame a state constitution and ratify the Fourteenth Amendment (*see FOURTEENTH AMENDMENT: RECONSTRUCTION*). Upon the states which did not promptly comply with this requirement there was imposed the further condition for readmission that they ratify also the Fifteenth Amendment, which forbade the denying of suffrage rights to citizens of the United States "on account of race, color, or previous condition of servitude." Inasmuch as until their disabilities should be removed by Congress, the leading white citizens at the South were disfranchised by the Fourteenth Amendment, control was thus brought into the hands of ignorant freedmen, largely under the guidance of self-seeking whites from the north. An orgy of misgovernment and reckless finance followed. Gradually, largely by intimidation if not by force or fraud, the negro's influence was cut down, and in less than a dozen years from Lee's surrender the former leaders regained dominance in all the states which had been in revolt, the President being no longer willing to bolster up "carpet-bagger" (*see*) governments by federal troops (*see NEGRO SUFFRAGE*).

Woman Suffrage.—The extension of the suffrage to women early found advocates in various parts of the Union but it was first given full effect in western frontier states, in most of which the great majority of the population consisted of males. The first states to introduce "equal suffrage" were Wyoming (1869), Colorado (1893), Utah (1896), and Idaho (1896). For several years women voted in the territory of Washington, under a law which was later (1887) declared unconstitutional because of a technical defect in its title. In 1910 a constitutional amendment was ratified which gave the suffrage to women on the same terms as to men. In 1911 the voters of California by a small majority ratified an amendment establishing equal suffrage for men and women. In Kansas where women have had for some years the vote in local elections

and have been eligible for municipal offices, a constitutional amendment ratified in 1912 extended the suffrage to women on the same terms as men. In 1912 Arizona and Oregon also were added to the list of equal-suffrage states, and in 1913 the legislature of Illinois granted the suffrage to women for statutory offices. In about half the states of the Union women may vote in the election of school officers; in a few, women who are taxpayers are allowed to vote upon financial measures (see WOMAN SUFFRAGE).

Restriction of the Suffrage: Citizenship Required.—But the evolution of the suffrage in America has been in the way of restriction as well as of extension. Gradually about three-quarters of the states have come to require that their voters shall be full-fledged citizens of the United States. Yet in about ten states, including those which are most eager to attract immigrants as agricultural laborers, the suffrage is granted to the newcomer after a residence within the state of from six months to a year, and a declaration of his intention to become a citizen. But such a voter has not renounced his allegiance to his native land, nor sworn allegiance to the United States; thus the strange anomaly is presented that he might today be taking part in the election of officers of the national Government, and tomorrow the United States might be brought into strained diplomatic relations with his native country over some question relating to his citizenship. In 1859 a constitutional amendment was ratified by Massachusetts which required that no foreign-born citizen should be entitled to vote in that commonwealth until the end of two years after he had completed his naturalization. This caused grave apprehension and resentment, particularly among the German-Americans; their influence in the Chicago convention of 1860 succeeded in forcing into the Republican platform a condemnation of such restrictions, and is alleged to have turned the scale in favor of the nomination of Lincoln rather than Seward or Banks, who were believed to be sympathetic toward such nativist legislation.

Educational Tests.—In requiring educational qualifications, the desire to raise the voter's plane of intelligence has sometimes been associated with motives which were less noble. Thus, when Connecticut (1854) and Massachusetts (1856) took the lead in requiring that a voter be able to read the Constitution and (in Massachusetts) write his own name, the action was taken in the heat of the Know-Nothing excitement (see AMERICAN PARTY), and its prime object was to delay and diminish the influence of the foreign-born in state and national politics. After the nativist movement subsided, educational qualifications for the suffrage continued to win their way on their own merits, until reading and writing tests have come to be applied, in one form or

another, in a dozen states. Federal law has helped indirectly toward decreasing the number of illiterate voters, since the naturalization act of 1906 requires that the applicant's petition shall be signed by him in his own handwriting, and that at the time of taking out his final papers he shall be able to speak the English language (see CITIZENSHIP; NATURALIZATION).

Tests in the South.—Soon after the dominance of the whites in the government of the southern states was reestablished, a movement arose to assure the permanence of white rule by law instead of by force, intimidation or fraud. In states like Mississippi and South Carolina, where the whites and negroes were in the ratio of two to three, this meant the elimination of the greater part of the negro vote. This has been accomplished by constitutional amendments which combine various optional qualifications. Thus a convention in Mississippi, 1890, drafted a new constitution, and—in spite of the existing constitution's prohibition of such action—proceeded to ordain and establish it, without referring it to the people for ratification. Thousands of negro voters had already been kept from the polls by the working of a new registration law. But the new constitution introduced two novelties. Besides requiring that the would-be voter be registered and payer of a poll tax, it was stipulated that after January 1, 1892, he must be able either to read any portion of the Constitution, or to understand it when read to him, or give a reasonable interpretation thereof. Registration officers throughout the state were whites, and the exclusion of the great mass of negro voters from any considerable share in politics was a foregone conclusion.

In succession, other southern states have approached the problem of eliminating the negro vote, each profiting by the experience of its predecessors. Thus, in 1895 the South Carolina convention provided that the voter must be able to read and write any section of the Constitution, or prove that he owns and has during the previous year paid taxes on property assessed at \$300 or more. The Louisiana constitution of 1898 incorporated a taxpaying qualification like that of South Carolina; a second option was an educational test, the would-be voter being required to write out a specified form of application, about 75 words in length; for applicants kept from the polls by these tests Louisiana presented her own discriminating test—that during the next three and a half months after the ratification of this amendment, any man might get his name permanently upon the voter's list who could prove that he had been a legal voter in any state of the Union on January 1, 1867, "or that he is the son or grandson of some such person"; 29,198 men became permanent voters of Louisiana by taking advantage of

this "son-or-grandson" clause—a peculiarly American form of hereditary aristocracy. In 1901 Alabama contributed her novel invention in a "good character" qualification which has been imitated by Virginia. The result of these various restrictions has been to disfranchise practically all the blacks and from 30,000 to 60,000 whites in each of the states where such tests have been applied. The total vote cast in the three states, Louisiana, Mississippi and South Carolina, fell from 492,357 in 1876 to 177,822 in 1900, despite the fact that the aggregate population of the three states between the years 1880 and 1900 increased forty per cent. In 1876 the Republicans polled 91,780 votes in South Carolina; in 1908 they polled 3,963.

It is sufficiently obvious that these disfranchising devices are contrary to the spirit of the Fourteenth and Fifteenth Amendments (*see*), yet no attempt has succeeded in getting from the Supreme Court a decision upon the direct issue of their constitutionality. In *Williams vs. Mississippi* (170 *U. S.* 213) it was declared that the suffrage qualifications in the Mississippi constitution "do not on their face discriminate between the white and negro races, and do not amount to a denial of the equal protection of the law secured by the Fourteenth Amendment to the Constitution: and it has not been shown that their actual administration was evil, but only that evil was possible under them." In *Giles vs. Harris* (189 *U. S.* 474) the court declared: "Relief from a great political wrong, if done as alleged, by the people of a state or by the state itself, must be given by them, or by the legislative and political departments of the Government of the United States." If the penalties for disfranchisement decreed by the Fourteenth Amendment were enforced, it would mean the loss of at least three representatives in Congress to such a state as Louisiana or Mississippi. But Congress is not likely to take upon itself the enforcement of the penalty, for the ratification of those amendments was procured only by counting the vote of states which acted under duress, and the requirement of such ratification as a prerequisite to readmission is considered to have been of doubtful constitutionality. Moreover, serious doubt has been growing as to both the justice and the expediency of the suffrage conditions which were forced upon the southern states. The foremost leaders among the negroes themselves have avowed their approval of both property and educational tests, if fairly administered, since each of them would serve as a spur to greater efforts on the part of the negroes in thrift and in education (*see* NEGRO SUFFRAGE).

Proportion of Voters to Population.—As a result of the varying suffrage tests, the proportion of the population who are entitled to vote differs very widely in the several states. Striking evidence of this may be seen in the

statistics of the congressional election of November 8, 1910, the year of a federal census. On that date the number of votes actually cast for Congressmen bore the following ratios to the population of these representative states: Utah, 1 to 4; Oregon, 1 to 6; Massachusetts, 1 to 8; South Carolina, 1 to 50; Mississippi, 1 to 75. Woman suffrage accounts for the large proportion of voters in Utah; in Oregon intense interest in local issues called out a heavy vote. In South Carolina and Mississippi the very small vote is to be accounted for not only by the restrictive qualifications, but by the fact that these states were so under the dominance of one political party as to make voting by its opponents hopeless and by its adherents of little interest, especially as the issue, as between candidates for the several offices, had already been settled at the primaries. The indifference to political interests and responsibilities which such conditions produce is a serious menace to the progress of the South, and to that of the country as well, for in Congress there remains uncurtailed the representation of states where one party has been virtually shut out of all influence, and where the other party fails to call forth in the rank and file of its adherents an alert or intelligent interest in national or even state politics (*see* VOTING, COMPULSORY).

Suffrage in the Territories and Dependencies.—In the organized territories (*see*) of the United States, the suffrage has been regulated by the people of the several territories, subject to such restrictions as Congress chose to prescribe. Thus, before their admission as states, Wyoming, Utah, and Washington all gave themselves woman suffrage. In the District of Columbia (*see*) white tax-payers were allowed to vote for the local officers from 1802 to 1855; the tax-paying qualification was then removed; in 1867 the suffrage was extended to adult male citizens, whether white or black, not disqualified by the Fourteenth Amendment. But government of the nation's capital by an electorate largely made up of illiterate negroes proved so fruitful of extravagance, inefficiency and dishonesty that by the act of 1874 all rights of suffrage were taken away from the residents of the District, the executive power in its government being then placed in the hands of a board of commissioners appointed by the President.

The war with Spain forced upon the United States complicated suffrage problems in organizing government in its new dependencies. Although the Republic of Hawaii had prescribed a substantial property qualification for electors of members of the senate the organic act (1900) swept that conservative restriction aside, and gave the ballot to all duly registered citizens of the United States, who have been resident in the islands not less than one year, who have attained the age of twenty-one years, and are able to speak, read and write either the

English or Hawaiian language. The Japanese and Chinese, who constitute a large majority of the population, are thus excluded, and as the Hawaiians show a tendency to decrease, political control is becoming more centralized in the hands of persons of American descent (*see* CITIZENSHIP IN UNITED STATES).

In Porto Rico (*see*) at first the electoral franchise was conferred upon male citizens of Porto Rico, of the age of twenty-one years and upwards, who should have been resident in the island for one year, subject, as in South Carolina, to an option between an educational and a property test. But the law of 1904 swept aside the property qualification and provided that after 1906 no person should be allowed to register unless he could read and write, although those who should be voters at that date were to continue to enjoy that privilege. The entire control of elections was placed in the hands of the executive council, appointed by the President.

In the Philippine Islands (*see*) the elective principle was first introduced in municipal government. In 1907 President Roosevelt, in accordance with the act of 1902, directed that a call be issued for a general election of delegates to a Philippine assembly, to constitute the lower house of the territorial legislature, the upper house being the appointive Philippine commission. The right of representation was not accorded to the Moros or other non-Christian tribes; and each voter was required to take an oath of allegiance, be the owner of property or a taxpayer, or be able to read, write and speak English or Spanish.

The enactment of these laws for the new dependencies called forth a storm of protest from theorists and from partisan politicians. Democrats and doctrinaires united in denouncing the Republican administration for forcing upon the insular possessions a rule which violated the principle of government by consent of the governed (*see* IMPERIALISM). The Republicans who were responsible for these measures insisted that they had been framed with benevolent consideration for the best interests of the backward peoples of the islands, and that criticism of such restrictive suffrage qualifications came with peculiarly ill grace from Democrats who in the southern states had in these very years sanctioned practices and constitutional devices which had deprived of the ballot hundreds of thousands of United States citizens (*see* DEPENDENCIES OF THE UNITED STATES).

Basis of Suffrage.—Such mutual charges of inconsistency force the facing of the question, what is the basis of the suffrage. In the progress of civilization, the counting of heads has displaced the breaking of heads as a mode of determining in whose control government shall be placed, and at a given time, each community's answer to the question whose heads shall be counted is its determination as to the basis

of the suffrage. That the suffrage cannot be a natural right (*see*) is obvious from the fact that no community can ever enfranchise all its citizens. There is no political unit in which at least two-fifths of its citizens are not denied a right to a voice in determining matters of its government for the reason that in the eye of the law they are infants. Their exclusion is on the ground that their participation in government would be for the disadvantage of the state. And precisely that test is to be applied in the case of other excluded classes. The pauper, as a dependent, is not allowed a vote in determining the government upon which he is a burden, and to which he can contribute nothing; the criminal, by his own anti-social acts, has given proof of his unfitness for the exercise of voting privileges. These plainly recognized facts make it evident that the suffrage is a privilege, the extension of which to any excluded class is a question of political expediency,—a question of the probable effects of the proposed change for the good or ill of the state, under given conditions. The norms which may properly be applied in one community or generation may be utterly inappropriate under changed conditions. In the twentieth century a church-membership test as a qualification for the suffrage would be preposterous; yet, if the early history of colonial development in Massachusetts Bay (*see*) and in the more liberal-minded Rhode Island (*see*) be compared, basis may be found for the belief that the Puritans of the former colony showed quite as much political sagacity as religious bigotry in their derided law of 1631.

There is, of course, the ever-present danger that the group of persons in any community to which for the time being the suffrage is confined will look upon their own interests as coincident with those of the state, and will exercise the suffrage in a selfish class spirit. History affords abundant illustrations of oligarchies, which came to disaster for this very reason. As intelligence becomes more widely diffused, the presumption is in favor of a broadening suffrage. Stability is given to the political structure by extending its base; the narrowness of class rule is prevented; the needs and aspirations of the many secure greater recognition; and men and measures are given the more loyal obedience, where it is felt that their authority rests upon the vote of the majority. Nevertheless, to any excluded group's demand for the ballot, sound logic must ever propound two questions—in what ways and to what extent does the present exclusion injure this group of citizens; and in what ways and to what extent would their enfranchisement inure to the advantage of the state. In the opinion of most careful students of existing conditions, the restrictions upon the suffrage in the insular dependencies of the United States are no more severe than

is necessitated by the illiteracy and utter inexperience in self-government of the great mass of the people. The tolerance which has been shown for the limitations imposed upon the suffrage by recent constitutional amendments in the southern states is due in considerable measure to a growing doubt in the minds of thoughtful men, whether the thrusting of the ballot into the hands of ignorant negroes at the end of the war was not a wrong to the freedmen themselves, and an unjustified cause of dissension to the states upon which it was imposed. The tendency in the country at large seems now to be to recognize that the public interest requires the drawing more closely the restrictions upon the suffrage by giving the ballot only to those who are citizens of the United States, and who have enough of the rudiments of education to enable them to look out for their own interests. Yet there is a prospect that the effect of such restrictions in the future will be more than offset by a widening of the electorate. The "new woman," who has established her place in education, in industry and in the professions, is making progress in convincing the present holders of the ballot that her admission to the suffrage will work for the advantage of the state.

Differing Electorate.—In nearly all of the states the suffrage requirements are uniform for electors of every officer to be voted for in that state. The one great exception is allowing women to vote in the election of the boards or committees which control the schools. In Rhode Island there still survives a law that no person may vote for the election of any member of a city council, or upon any measure of municipal finance, unless he shall have paid, the previous year, a tax upon his property therein valued at least at \$134. A tax on so trifling a valuation affords no guarantee of the financial responsibility of the voters, for—like the poll tax (*see*) in states where its payment is required as a qualification for the suffrage—the law is easily evaded, or the payment of the tax is taken care of by political friends of the indigent voter. In England, and to a still greater extent in Germany, the municipal as contrasted with the parliamentary suffrage is so restricted as to exclude entirely or render negligible in effect the vote of great classes in the city's population. In the United States, on the other hand, the vote of the slum-dweller, the corner loafer, the household servant weighs as much as that of the city's heaviest tax-payer or most distinguished citizen. American democracy is not disposed to tolerate the reintroduction of property qualifications. This contrast in the political influence, through the ballot, of the propertied class in England and Germany as compared with America must constantly be borne in mind in any critical study of the problem of municipal government in the several countries.

Scope of the Suffrage.—Aside from the question, who may vote in a given community, there remains the inquiry, what is the scope of power, the range of decision controlled by the voter. Some of the earliest American state constitutions gave the election of most important officers, such as governors and judges, not to the voters but to the representative legislature, just as the Federal Constitution made that disposition of the election of Senators (Art. I, Sec. iii, ¶ 1). The democratizing movement, which came at the end of the eighteenth century, soon transferred most of these elections to the direct vote of the people; the legislature's election of judges in Rhode Island is a discredited survival of the older system. In later years distrust of legislatures became widespread, and the idea became prevalent that safe and responsible government was best to be secured by making as large a proportion as possible of the public's servants elective, for short terms of office. In the last decade of the nineteenth century growing legislative abuses led to a vigorous agitation for direct legislation, and to the gradual adoption of the initiative and referendum. As a result the task devolved upon the voter has been greatly extended and complicated. On the ballot, November 5, 1912, the Oregon voter was expected to express his choice between 177 candidates for the filling of 44 offices, and then to vote *yes* or *no* upon 37 projects of direct legislation, including 14 constitutional amendments. Against such a strain upon the suffrage the reaction is already making itself felt. The multiplication of elective offices with the purpose of securing responsible government has defeated its own object; for the voter, unable to discriminate among so many men whom he does not know, has been forced to vote blindly by party label. In city government it first came to be appreciated that better results might be secured by focussing the voters's attention upon fewer men, and making those few responsible for minor officials to be appointed by them. The same logic holds as to the initiative (*see*) and referendum (*see*): the best results are not to be expected if the voter's attention is distracted by too many diverse projects. Simplification of the voter's task has been accomplished in some degree by lengthening the terms of elective office, and by assigning state and local elections to different days. The present tendency is toward more drastic remedies. Thus, in Oregon in 1910 strong support was given a proposal to reduce the number of offices on which the elector would vote in a state general election from the present number (22 to 39) to from five to eight, and to set a low maximum to the number of direct legislation projects which may appear upon the same ballot. For experience is making it increasingly clear that the "people's rule" movement and the "short ballot" movement must be united.

States	Citizenship	Previous Residence				Educational Tests	Tax or Property Tests	Alternative Tests	Woman Suffrage
		State	County	Town	Precinct				
Alabama	Male, 21 years of age. Citizen of U. S., or aliens who have declared intention.	2 yrs.	1 yr.	-----	3 mos.	A.* Able to read and write any article of U. S. Const. in Eng. and regularly engaged in some lawful employment for greater part of preceding year.	1. Payment of all poll taxes due from him since 1901. B.* Ownership and payment of taxes on 40 A. of land on which he resides; or property assessed at \$300, or more.	Permanent registration regardless of A or B (Nov. 28, 1901-Dec. 20, 1902) as voters if 1. All men who had served honorably in any war of U. S. prior to 1898, or in service of Confederate States or of Ala. or 2. Lawful descendants of such veterans, or 3. Persons of good moral character, who understand the duties and obligations of citizens under a republican form of government.	
Arizona	Citizen of U. S., 21 years of age.	1 yr.	30 d.	-----	30 d.	Read U. S. Const. in English; write his name.	Only property taxpayers may vote upon questions of bond issues of special assessments.		Women vote on the same terms as men.
Arkansas	Male, 21 years of age. Citizen of U. S. or alien who has declared intention.	1 yr.	6 mos.	-----	1 mo.		Payment of poll tax.		
California	Native citizen of U. S., 21 years of age; or citizen naturalized 90 days before the election.	1 yr.	90 d.	-----	30 d.	Read Const. in English; write his or her name.			Women vote on the same terms as men.
Colorado	Citizen of U. S., 21 years of age.	1 yr.	90 d.	30 d.	10 d.	Legislature authorized to prescribe tests by law.			Women vote on the same terms as men.
Connecticut	Male, 21 years of age. Citizen of U. S.	1 yr.	-----	6 mos.	-----	Read any article of Conn. Const. in English, or any section of Conn. Statutes. Shall "sustain a good moral character."			Women, with same age and residence qualifications as male voters, may vote for any school officer, or upon any question relating to education or to schools.
Delaware	Male, 21 years of age. Citizen of U. S.	1 yr.	3 mos.	-----	30 d.	If 21 after 1900, read Del. Const. in English, and write his name.	Payment of poll tax.		In some districts, women may vote for school officers.
Florida	Male, 21 years of age. Citizen of U. S.	1 yr.	6 mos.	-----	-----		Payment of capitation tax.		

* Sections preceded by asterisks present tests which are options one for another. The would-be voter is required to qualify under only one of them.

SUFFRAGE

SUFFRAGE CONDITIONS IN THE UNITED STATES—Continued

States	Citizenship	Previous Residence				Educational Tests	Tax or Property Tests	Alternative Tests	Woman Suffrage
		State	County	Town	Precinct				
Georgia	Male, 21 years of age. Citizen of U. S.	1 yr.	6 mos.	-----	-----	A.* Read in English any paragraph of Constitution of U. S., or of Ga., and write the same.	Payment of all taxes which have been required of him, since 1877. B.* Ownership of 40 A. of Ga. land on which he resides, or of Ga. property assessed at \$500 or more.	C.* All persons who honorably served in any war of U. S., or in service of Confederate States or of Ga. D.* All persons lawfully descended from such veterans. E.* Persons of good moral character, who understand the duties and obligations of citizenship under a republican form of government.	
Idaho	Citizen of U. S. 21 years of age.	6 mos.	30 d.	-----	-----		Property qualifications are prohibited in the Const., except in school elections or elections creating indebtedness.		Women vote on the same terms as men.
Illinois	Male, 21 years of age. Citizen of U. S.	1 yr.	90 d.	-----	30 d.				Women vote on the same terms as men for constitutional, offices.
Indiana	Male, 21 years of age. Citizen of U. S., or alien, resident in U. S. 1 yr., who has declared intention.	6 mos.	-----	60 d.	30 d.				Women may vote at local school elections.
Iowa	Male, 21 years of age. Citizen of U. S.	6 mos.	60 d.	-----	-----				Women may vote on any question of issuing bonds for municipal or school purposes, or on increasing the school tax levy; and at school elections.
Kansas	Citizen of U. S., or alien who has declared intention, 21 years of age.	6 mos.	-----	30 d.	30 d.				Women may vote on the same terms as men.

* Sections preceded by asterisks present tests which are options one for another. The would-be voter is required to qualify under only one of them.

SUFFRAGE

States	Citizenship	Previous Residence				Educational Tests	Tax or Property Tests	Alternative Tests	Woman Suffrage
		State	County	Town	Precinct				
Kentucky	Male, 21 years of age. Citizen of U. S.	1 yr.	6 mos.	-----	60 d.		Poll tax payment in cities where required.		Widowed mothers and splinter guardians of children of school age may vote in the election of school trustees, and on school taxes.
Louisiana	Male, 21 years of age. Citizen of U. S.	2 yrs.	1 yr.	-----	6 mos.	A.* Read and write. The applicant writes a 75 word application for registration.	B.* Ownership of and full prepayment of taxes on lat. property assessed at not less than \$300. Exhibit poll-tax receipts for two years preceding the election.	C.* Special registration (May 12, 1898—Aug. 31, 1898) gave permanent suffrage right to male persons, lacking A. and B., who could vote in any State, Jan. 1, 1867; or any son or grandson of such person; or any foreign-born person, who had been naturalized in U. S. before Jan. 1, 1898. The restriction of such registration to the above date was removed by amendment in 1912.	Women taxpayers may vote on questions submitted to the taxpayers, as such, of any political subdivision of the state.
Maine.	Male, 21 years of age. Citizen of U. S.	3 mos.	-----	3 mos.	-----	Read Constitution in English and write his name.			
Maryland	Male, 21 years of age. Citizen of U. S.	1 yr.	6 mos.	6 mos.	6 mos.				
Massachusetts	Male, citizen 21 years of age.	1 yr.	-----	6 mos.	-----	Read Constitution in English and write his name.	Assessed for the payment of poll tax.		Women may vote for members of the school committee.
Michigan	Male, 21 years of age. Citizen of U. S., alien who two and a half years before Nov. 8, 1894, had resided in Mich., and had declared intention; civilized male of Indian descent, born in U. S., not a member of any tribe.	6 mos.	-----	20 d.	20 d.				Women taxpayers may vote on any question involving the direct expenditure of public money or issue of bonds, and if parent or guardian of child of school age, may vote in school elections and on school taxes.

* Sections preceded by asterisks present tests which are options one for another. The would-be voter is required to qualify under only one of them.

SUFFRAGE CONDITIONS IN THE UNITED STATES—Continued

States	Citizenship	Previous Residence			Educational Tests	Tax or Property Tests	Alternative Tests	Woman Suffrage
		State	County	Town				
Minnesota	Male, 21 years of age. Citizen of U. S., for 3 months, next preceding any election; persons of mixed white and Indian blood who have adopted habits of civilization; a court has pronounced capable of enjoying rights of citizenship in Minnesota.	6 mos.	-----	-----	30 d.			Women may vote for school officers and members of library boards.
Mississippi	Male, 21 years of age. Citizen of U. S.	2 yrs.	-----	1 yr.	1 yr.	Beginning Jan. 1, 1892, all who register must read any section of offers to vote of all Miss. Const., or be able to understand it and for the preceding two give a reasonable interpretation thereof.		
Missouri	Male, 21 years of age. Citizen of U. S., or alien who has declared intention 1 to 5 years before he offers to vote.	1 yr.	60 d.	60 d.	-----			
Montana	Male, 21 years of age. Citizen of U. S.	1 yr.	30 d.	-----	-----	Taxpayers vote on questions of taxation.		Women may vote at any school district election; women taxpayers may vote upon all questions submitted to the vote of taxpayers.
Nebraska	Male, 21 years of age. Citizen of U. S., or aliens who at least 30 days, prior to an election, have declared intention.	6 mos.	40 d.	10 d.	10 d.	To vote at a school election, the elector must own property assessed in his name, or have children of school age.		In some districts women who own property assessed in their own names, or who have children of school age, may vote on all matters pertaining to schools.
Nevada	Male, 21 years of age. Citizen of U. S.	6 mos.	30 d.	-----	30 d.			
New Hampshire	Male, 21 years of age. Citizen of U. S.	6 mos.	-----	6 mos.	-----	Payment of all taxes assessed against him for the year prior to election.		Women may vote at school district meetings.

SUFFRAGE

States	Citizenship	Previous Residence			Educational Tests	Tax or Property Tests	Alternative Tests	Woman Suffrage
		State	County	Town				
New Jersey	Male, 21 years of age. Citizen of U. S.	1 yr.	5 mos.	-----				Women may vote on questions of raising money or bonding school districts for the purpose of erecting a school house or purchasing necessary furniture and equipment therefore.
New Mexico.	Male, 21 years of age. Citizen of U. S.	1 yr.	90 d.	-----	(Negative:—The right of any citizen to vote shall not be restricted, abridged or impaired, on account of religion, race, language or color, or inability to speak, read or write the English or Spanish languages.)			Women may vote at school elections in any district, unless, upon petition of a majority of the qualified voters, woman suffrage is suspended in that district.
New York	Male, 21 years of age. Citizen, native, or naturalized 90 days, prior to the election.	1 yr.	4 mos.	-----		At any school meeting, unless the elector has children of school age living with him, he must own taxable real estate in the district, or personal property assessed at over \$50, exclusive of what is exempt from execution.		Women tax-payers may vote on a proposition to raise money by tax or assessment. Women may vote in school elections on the same terms as men.
North Carolina	Male, 21 years of age. Citizen of U. S.	2 yrs.	6 mos.	-----	A.* Read and write any section of Const., in English.	Payment of poll tax for year previous to election.	B.* No male person who was a legal voter in any state, Jan. 1, 1867, and no lineal descendant of such person shall be denied the right to register as a permanent voter (<i>provided</i> he register before Dec. 1, 1908) by reason of his failure to possess the educational qualifications.	
North Dakota	Male, 21 years of age. Citizen of U. S.; civilized persons of Indian descent, who have severed tribal relations two years preceding election.	1 yr.	6 mos.	-----	Legislature authorized to establish an educational test.			Legislature authorized to extend general suffrage to women, subject to referendum. Women may vote for all school officers, and on all school questions.

* Sections preceded by asterisks present tests which are options one for another. The would-be voter is required to qualify under only one of them.

SUFFRAGE CONDITIONS IN THE UNITED STATES—Continued

States	Citizenship	Previous Residence				Educational Tests	Tax or Property Tests	Alternative Tests	Woman Suffrage
		State	County	Town	Precinct				
Ohio	Male, 21 years of age.	1 yr.	30 d.	20 d.	20 d.				Women may vote for members of the board of education and upon no other questions.
Oklahoma	Male, 21 years of age, citizen of U. S.; citizen of Oklahoma; man of Indian descent, native of U. S.	1 yr.	6 mos.	-----	30 d.	A.* Read and write any section of Okla. Constitution.		B.* No person entitled to vote Jan. 1, 1865, in any state, or who then resided in some foreign nation, and no lineal descendant of such person shall be denied the right to vote because of inability to read and write (Const. held unconstitutional by a U. S. Dist. Ct., in a case involving discrimination against person of negro descent.)	All female citizens, providing like qualifications of male electors may vote at school district elections or meetings.
Oregon	Male, 21 years of age, citizen of U. S.; alien who one year prior to election, has declared intention.	6 mos.	-----	-----	-----		To vote in a school election, the elector must have property in the district, or be the head of a family having children of school age.		Women vote on the same terms as men.
Pennsylvania	Male, 21 years of age, citizen of U. S., at least one month.	1 yr.	-----	-----	2 mos.		If 22 years of age and upwards must have paid within 2 years a state or county tax assessed at least 2 mos., and paid at least 1 mo., before the election.		
Rhode Island	Male, 21 years of age.	2 yrs.	-----	6 mos.	-----		In order to vote in elections of the city council or on any proposition to impose a tax a person must have paid taxes on property there assessed for at least \$134. A school tax (\$1.00) is assessed annually upon every person eligible to register.		

* Sections preceded by asterisks present tests which are options one for another. The would-be voter is required to qualify under only one of them.

SUFFRAGE

States	Citizenship	Previous Residence				Educational Tests	Tax or Property Tests	Alternative Tests	Woman Suffrage
		State	County	Town	Precinct				
South Carolina	Male, 21 years of age.	2 yrs.	1 yr.	-----	4 mos.	A.* Read and write any section of S. C. Constitution. (From 1895-Jan. 1, 1898, to secure life registration as voters, applicants had to read any section of S. C. Const., or understand and explain it, when read to them.)	Payment 6 mos. before any election of any poll tax then due. Proof of payment of all taxes assessed against him and payable during the previous year. B.* Proof that he owns and has paid taxes during the previous year on property in S. C., assessed at \$300 or more.		
South Dakota	Male, 21 years of age. Citizen of U. S., or alien who has declared intention, resident 1 yr. in U. S.	6 mos	30 d.	-----	10 d.				Women may vote at any election held solely for school purposes.
Tennessee	Male, 21 years of age. Citizen of U. S.	1 yr.	6 mos.	-----	-----		Proof that he has paid the full taxes assessed against him. All adult male citizens are subject to payment of poll taxes.		
Texas	Male, 21 years of age. Citizen of U. S.; alien who, 6 mos. before an election, has declared his intention.	1 yr.	6 mos.	-----	6 mos.		Payment of poll tax before Feb. 1, prior to the election. In elections to determine the expenditure of money or assumption of debt, or issuance of bonds, only tax payers in such city or town may vote.		
Utah	Citizen of U. S., 21 years of age. Naturalization completed 90 d. prior to election.	1 yr.	4 mos.	-----	60 d.		Property-tax payment required for voters in election levying a special tax or creating indebtedness.		Women vote on same terms as men.
Vermont	Male, 21 years of age. Citizen of U. S.	1 yr.	-----	-----	3 mos.				Women may vote on matters pertaining to schools and school affairs.

* Sections preceded by asterisks present tests which are options one for another. The would-be voter is required to qualify under only one of them.

SUFFRAGE CONDITIONS IN THE UNITED STATES—Continued

States	Citizenship	Previous Residence			Educational Tests	Tax or Property Tests	Alternative Tests	Woman Suffrage
		State	County	Town				
Virginia	Male, 21 years of age. Citizen of U. S.	2 yrs.	1 yr.	1 yr.	A.* Registration 1902-3. Read any section of Va. Const., or understand and give a reasonable interpretation thereof, when read to him. A. ¹ * Since Jan. 1, 1904. Make application in his own handwriting without aid or suggestion, stating name, age, date and place of birth, residence and occupation at the time and for 2 yrs. preceding, and when he has previously voted. B.* Registration 1902-3. Ownership of property in Va. on which in previous years taxes aggregating at least \$1 have been paid. B. ¹ * Since Jan. 1, 1904. Payment of all State and poll taxes assessed or assessable against him for three years next preceding.	Payment of State poll tax (not required of veterans, on either side in "the late war between the States"). 1902-3. Registration 1902-3. Ownership of property in Va. on which in previous years taxes aggregating at least \$1 have been paid. B. ¹ * Since Jan. 1, 1904. Payment of all State and poll taxes assessed or assessable against him for three years next preceding.	C.* Registration, 1902-3. A person who prior to 1902 served in time of war in the army or navy of the U. S., of the Confederate States, or of any State of the U. S., or of the Confederate States. D.* Registration, 1902-3. A son or grandson of any such person. (C.)	
Washington	Citizen of U. S., 21 years of age.	1 yr.	90 d.	30 d.	Read and speak the English language.			Women vote on the same terms as men.
West Virginia	Male, 21 years of age. Citizen of W. Va.	1 yr.	60 d.	-----				
Wisconsin	Males, 21 years of age. Citizen of U. S. Till Dec. 1, 1912, aliens who declared intention before Dec. 1, 1908. Indians who have been declared citizens of U. S. by act of Congress; civilized Indians not members of any tribe.	1 yr.	-----	10 d.				Women may vote in any election pertaining to school district matters, and the election of school district officers.
Wyoming	Citizens of U. S., 21 years of age.	1 yr.	60 d.	-----	Read Wyoming Constitution.			Women vote on the same terms as men.

* Sections preceded by asterisks present tests which are options one for another. The would-be voter is required to qualify under only one of them.

Note.—Most of the states have, in addition to what is stated above, a restriction to the effect that idiots and insane persons, felons, etc., shall not vote; sometimes paupers are included in the prohibition. Sometimes constitutions state that United States soldiers and seamen gain no voting residence by being stationed in the state.

SUFFRAGE IN EUROPEAN COUNTRIES

See BALLOT; BALLOT, SHORT; ELECTION SYSTEM IN THE UNITED STATES; POLLS; VOTERS, REGISTRATION OF; WOMAN SUFFRAGE.

References: F. R. Meehem, *Law of Public Offices and Officers* (1890), ch. v; M. H. Throop, *Law Relating to Public Officers* (1892), ch. ix; G. W. McCrary, *Am. Law of Elections* (4th ed., 1897); D. C. MacMillan, *Elective Franchise in the U. S.* (rev. ed., 1898); D. S. Remsen, *Suffrage and the Ballot* (1892); A. E. McKinley, *Suffrage Franchise in the Thirteen English Colonies* (1905); A. B. Hart, "Realities of Negro Suffrage" in *Am. Pol. Sci. Assoc., Proceedings*, II (1905), 149-166, "The Exercise of the Suffrage" in *Pol. Sci. Quart.*, VII (1892), 307-329, same article in *Practical Essays on Am. Government* (1893), 20-57, *Actual Government* (1903), 65-85; J. C. Rose, "Negro Suffrage" in *Am. Pol. Sci. Review*, I (1906), 17-43; K. Schirmacher, *Modern Woman's Rights Movement* (Eckhardt, tr., 1912), 2-23; J. W. Garner, *Intro. to Pol. Sci.* (1910), 500-516; C. A. Beard, *Readings in Am. Gov. and Politics* (1911), index, "Suffrage"; T. M. Cooley, *Constitutional Limitations* (7th ed., 1903).

GEORGE H. HAYNES

SUFFRAGE IN EUROPEAN COUNTRIES.

Tendency.—The article confines itself primarily to the suffrage qualifications now in force for the election of members of the more popular branch of the national legislatures of the several European countries. Throughout all of the European countries there has been a steady movement toward a liberalizing of the suffrage, and for many of the countries this movement may be said to have proceeded (1) from qualifications which confined the control of elections to the upper classes, (2) to a reduction of qualifications which should permit the middle classes to exercise a share of power, and (3) finally, a system of universal male suffrage, which would permit the lower classes of the population to exercise an influence proportionate to their numbers. This movement for the extension of the suffrage has been particularly active during the past decade, and has brought about important results in Austria, Sweden, Norway, Denmark, Italy, and a number of German States. Struggles for suffrage extension in Hungary, Prussia, and the Netherlands, have not yet (1912) been successful.

In a discussion of the general features of present suffrage qualifications in the European countries, it will be necessary to group together roughly those countries whose systems have similar features, and in this way it is possible to distinguish six classes of suffrage qualifications:

Curial System.—The so-called curial system, the most important illustration of which is the electoral scheme which existed in Austria before 1907. There were five classes of elec-

tors: (1) the great land owners, comprising those who paid a certain land tax, varying in the several provinces from 50 to 250 florins—this class elected 85 representatives; (2) the cities, where the electoral franchise was extended to all males of twenty-four who paid a tax of five florins—this class elected 39 representatives; (3) chambers of commerce and of industry—this class alone elected 21 representatives and together with the second class chose 19 others; (4) rural communes, in which the qualifications for voting were the same as in the cities—this class elected 129 representatives; (5) a fifth class created by law of June 14, 1896, included all males who had attained the age of twenty-four years, and chose seventy-two representatives. This system was replaced in 1907 by universal male suffrage for Austrian imperial elections, but a curial system is still employed in the Austrian provinces and in Bosnia-Herzegovina. By the Russian electoral law of June 16, 1907, a curial system is established, by means of which a Duma of popular character has been largely avoided.

Three Class System.—The Prussian three-class system of voting is one not dissimilar in principle from the curial system, except that it is based entirely upon a tax qualification. The highest tax-payers paying one-third of the taxes form the first class; those paying the second third of the taxes form the second class; and the third class is composed of all those smaller tax-payers paying the other third of the taxes. The representation is primarily one of large tax payers. An unsuccessful effort was made in 1910 to liberalize the suffrage in Prussia. From 1896 to 1909 Saxony had a three-class system of voting somewhat similar to but more liberal than that of Prussia. [For fuller description of Prussian system, see LEGISLATIVE SYSTEM IN EUROPE.]

Plural Voting.—Systems of plural voting aim to accomplish the same purpose as the curial and class systems—to give a predominant political power to certain elements in the community. The plan introduced in Belgium in 1893 gives the suffrage to all male citizens of twenty-five, but gives one or two additional votes on account of certain tax-paying, educational, or professional qualifications. The Saxon electoral law of 1909 introduced the system of plural voting—males twenty-five years of age paying direct taxes have one vote, and one or two additional votes are given on account of property, tax-paying, educational or professional qualifications; each voter receives an additional vote upon reaching the age of fifty, and no person has more than four votes. The plan of electoral reform which was under consideration in Hungary in 1908-10 provided also for a system of plural voting. Magyars were to have one, two, or three votes, non-Magyars to have one-tenth of a vote each—this system was of course devised to maintain the political supremacy of the Magyars.

Qualifications.—Property, tax-paying, or educational qualifications for voting confine political control in the hands of the upper classes in proportion to the stringency of the qualifications imposed. Since the reform act of 1884 limitations upon the suffrage in England are slight, and the system approaches one of universal male suffrage. In the Netherlands the qualifications are somewhat more stringent; in Portugal tax qualifications limiting the suffrage very materially were somewhat liberalized by a decree of April 5, 1911; the present Hungarian suffrage qualifications are such as to maintain political control in the hands of the Magyars; in Italy the property and educational qualifications before 1912 were such as materially to limit the suffrage.

Universal Male Suffrage.—The tendency has steadily been toward a wider basis of suffrage in the European countries and universal male suffrage now exists in the German Empire, France, Austria (since 1907), Spain, Switzerland, Greece, Denmark, Norway (since 1898), and Sweden (since 1909). In Italy substantially universal male suffrage was introduced in 1912. But the qualifications of age vary materially in the several countries—twenty in Switzerland, twenty-five in Germany, and thirty in Denmark. In this latter country a measure now (1912) under consideration proposes the reduction of the age qualification to twenty-five—a reduction already made in 1908 for local elections.

Universal Suffrage.—The final step in suffrage extension is that to universal suffrage for both males and females, and this step was taken by the election law of Finland in 1906. In 1907 Norway admitted women to vote in national elections, on the basis of a tax qualification, and the same country in 1910 introduced universal woman's suffrage for local elections. A proposed suffrage law now under consideration in Denmark contemplates the extension of suffrage to women in national elections, tax-paying women having enjoyed this privilege since 1908 in local elections.

See HOUSE OF COMMONS; LEGISLATIVE SYSTEM IN EUROPE.

References: F. Schneider in *Archiv für öffentliches Recht*, XXVI (1910), 193-289; W. F. Dodd, "Constitutional Developments in Foreign Countries during 1908 and 1909" in *Am. Pol. Sci. Review*, IV (1910), 325-349; G. Meyer, *Das parlamentarische Wahlrecht* (1901); Lefèvre-Pointalis, *Les Elections en Europe* (1902). W. F. Dodd.

SUFFRAGE, MANHOOD. In the eighteenth century it was generally accepted doctrine that the suffrage should be confined to men of position, with some property interest in the community. The democratic ferment, which gave rise to the revolution in America and in France, set up a new goal in "manhood suffrage" or "universal suffrage" (see SUFFRAGE),

and the nineteenth century saw long strides taken toward its attainment. The American states soon abolished their property qualifications. As the phrase is used today, "manhood suffrage" means the giving of the ballot (see) to all adult (male) citizens of mental and moral capacity, irrespective of their possession of property. Strong arguments have been adduced in its favor, both as dignifying the individual and affording a means for the political education of the masses, and also as making government more representative and stable. Critics of democracy fear a government "by the most ignorant and the most incapable." J. S. Mill was justified in insisting that universal teaching must precede universal enfranchisement. The reassuring fact is, that the countries of the broadest franchise are the foremost in multiplying the facilities for public education. **References:** S. Leacock, *Elements of Pol. Sci.* (1906), 218-228; J. W. Garner, *Intro. to Pol. Sci.* (1910), 502-516. G. H. H.

SUFFRAGE, NEGRO. See NEGRO SUFFRAGE.

SUFFRAGE PARTY. Prior to the Rhode Island constitution of 1842, suffrage in that state was restricted to owners of land, or the eldest sons of such owners, of a minimum value of \$134.00. In March, 1840, the Rhode Island Suffrage Association was formed, and under its direction mass meetings were later held at Providence and Newport. A suffrage, or people's, convention, the delegates to which were chosen by votes of male citizens of at least one year's residence, met at Providence, October 4, and November 18 completed a constitution under which the suffrage was given to white male citizens who had resided one year in the state and six months in the town or city in which the vote was tendered. The constitution was adopted, December 27-29, by the votes of 4960 freemen and 8984 non-freemen. The general assembly refused to recognize it, but instead submitted, February 19, 1841, a constitution framed by a convention legally called, under which the freehold qualification was abolished for native-born citizens. March 21-23 this constitution was rejected, the suffragists voting against it. The attempt of the suffrage party to put their constitution into effect resulted in the Dorr Rebellion. See DORR REBELLION; RHODE ISLAND AND PROVIDENCE PLANTATION. **References:** I. B. Richman, *Rhode Island: a Study in Separatism* (1905), 290-299; A. M. Money, *The Dorr War* (1900). W. MacD.

SUGAR FRAUDS. Frauds connected with the importation of sugar have been prevalent for many years. Formerly fraudulent entry was accomplished by artificial coloring of sugar in order to lower its standard and thus secure a lower rate of duty. By the tariff of 1883

this was made ineffective by the requirement that sugar be classified by the polariscope test, a scientific method of measuring the saccharin strength of the sugar. In 1909, under the energetic administration of William Loeb, Jr., as collector of the New York port, it was discovered that extensive frauds had been perpetrated over a series of years by several of the largest sugar refining companies, notably the American Sugar Company. Weights were falsified, scales were tampered with, and employees bribed. By these means it was estimated that the government had been defrauded of \$6,000,000. The cases against the companies were settled out of court. More than \$4,000,000 in penalties was paid, Criminal suits also were brought leading to the conviction of several employees of the American Sugar Company, including two of the higher officials. See SMUGGLING; TARIFF ADMINISTRATION.

D. R. D.

SULU ARCHIPELAGO. This consists of 188 islands, with an area of 1,029 square miles, lying between Mindano and Borneo. The inhabitants are Moros and the population in 1903 (census) was 117,777. Sulu, the capital, was occupied by the American forces on May 19, 1899, and during the next four years the islands were administered in accordance with the terms of the treaty negotiated by General Bates with the Sultan and certain Datos on August 20. In 1903 the treaty was set aside because of non-fulfillment by the Sultan and the islands were organized as Sulu District of Moro Province. See DEPENDENCIES OF THE UNITED STATES; PHILIPPINE ANNEXATION, Reference: Philippine Commission, *Report*, 1903. P. J. T.

SUMNER, CHARLES. Charles Sumner (1811-1874) was born at Boston, January 6, 1811. In 1834 he was admitted to the bar, and in connection with his practice edited for three years, jointly with George S. Hillard, the *American Jurist*. He was already an ardent anti-slavery man. From 1837 to 1840 he travelled in Europe, where he made a wide acquaintance. He first became prominent in politics in 1845, by eloquent denunciation of the annexation of Texas and the Mexican War. Though strongly opposed to slavery, he was not a Garrisonian Abolitionist, but in 1848 joined the Free Soil party. In 1851 he was elected United States Senator from Massachusetts by a coalition of Whigs and Free-Soilers, retaining his seat until his death. In the Senate he became a leader of the anti-slavery opposition, and denounced, with great oratorical power but at times with extremely bitter and vituperative language, the slavery advocates and their measures. Because of personal remarks in a speech entitled "The Crime against Kansas," May 20, 1856, he was assaulted by Representative Brooks of South

Carolina, receiving injuries which necessitated his absence from his seat until 1859. In 1861 he became chairman of the committee on foreign affairs, and gave his support to Lincoln; but he joined the radical Republicans in opposing Johnson, and defended the reconstruction program. The Civil Rights Act of 1866 was mainly his work, and is almost his only constructive act. In March, 1871, he was forced from his chairmanship in consequence of differences with Grant over San Domingo, and became in consequence a bitter opponent of the President. He died at Washington, March 11, 1874. See RECONSTRUCTION; SLAVERY CONTROVERSY. References: Charles Sumner, *Works* (1870-83); E. L. Pierce, *Memoir and Letters of Charles Sumner* (1877-93); M. Storey, *Charles Sumner* (1900); A. H. Grimké, *Life of Charles Sumner* (1892); G. H. Haynes, *Charles Sumner* (1909).

W. MACD.

SUNDAY LEGISLATION. At common law, judicial proceedings only were prohibited on Sunday, and ordinary labor and the making of contracts were lawful. An English act in the time of Charles II (29 *Car. II* c. 7), still in force, laid the basis for the English and American legislation as it exists to this day, by a general prohibition of labor and business except work of necessity or charity on the first day of the week (which unless otherwise defined in particular statutes means from midnight Saturday to midnight Sunday) whether referred to as Sunday, Sabbath or the Lord's Day. The courts in the United States have sustained the most sweeping state statutes from the so-called blue laws of early colonial days to the prohibition of public games of baseball (New York and Indiana, if an admission is charged). Even the running of interestate trains, notwithstanding the general power of Congress over interstate commerce, has been prohibited as the valid exercise of the police power of the states. Persons observing the seventh day as the Sabbath are exempted in some states from observance of Sunday. The general tendency in legislation is toward greater liberality in the matter of prohibited acts on Sunday. On the other hand the "one day rest in seven" movement is gaining strength especially in the ranks of organized labor, with the coöperation of the churches, in proportion to the increase in number and importance of continuous industries where labor is required twenty-four hours a day seven days a week; and legislation will soon be enacted in many states which will forbid the employment of anyone for more than six days without an intervening period of 24 hours for rest. See HOLIDAYS, LEGAL; LABOR, PROTECTION TO; PUBLIC MORALS, CARE FOR. References: J. A. Fitch, "Sunday and Rest-day Labor Laws in U. S." in N. Y. Dept. Labor, *Bulletin*, Sept., 1910, "Rest-day Legislation in Foreign Coun-

tries" in *ibid*, Dec., 1911; *Survey*, XXVII, 17 (1898), XXVIII (1899), 548. S. McL.

SUNDRY CIVIL BILL. A law which includes a part of the regular appropriations for federal expenditures. Originally designed to provide for miscellaneous items not falling conveniently under general heads of appropriation, it has grown by the addition of new items which in a systematized budget would be classified under the several main services. This bill now carries one-fifth to one-sixth of the aggregate appropriations. Its totals for fiscal years at ten-year intervals are (thousand dollars): 1890-91, \$29,738.2; 1900-01, \$65,319.9; 1910-11, \$114,066.6. The last sum includes \$37,855,000 for Panama Canal expenditure. Items are grouped under government departments—State, Treasury and War now having the largest totals. See APPROPRIATIONS, AMERICAN SYSTEM OF; COMMITTEE SYSTEM IN THE UNITED STATES; EXPENDITURES, FEDERAL; HOUSE OF REPRESENTATIVES; SENATE OF THE UNITED STATES; TREASURY DEPARTMENT. Reference: "Sundry Civil Appropriation Act" in *Sen. Doc.*, 61 Cong., 2 Sess., No. 655 (1910), 320-392. E. H. V.

SUPERIOR COURT. See COURT, SUPERIOR.

SUPERVISING ARCHITECT, OFFICE OF. The Supervising Architect's Office prepares plans for and supervises the construction and repair of public buildings throughout the United States. The work of the office is subject to the general supervision of the Secretary of the Treasury (*see* TREASURY DEPARTMENT). References: Secretary of the Treasury, *Annual Reports*; J. A. Fairlie, *National Administration of the U. S.* (1905), 130-131. A. N. H.

SUPERVISORS. Certain county, and in some cases also certain town, officers are called supervisors in a number of American states. The general administrative authority for county affairs in these states is a board of supervisors, elected by towns or other subdivisions of the county, these boards exercising the powers and functions of county commissioners and the administrative functions of county courts in other states.

A county authority composed of town representatives was provided in Massachusetts before 1650, to equalize the apportionment of taxes between the various towns. But the more definite establishment of the supervisor system began in New York in 1691, when county boards of town supervisors were established to supervise, levy and assess county taxes, which had previously been done by the county courts of the justices of the peace. During the next half century other administrative powers of the justices of the peace in New York were transferred to the supervisors. A similar system was developed during the colonial period

in New Jersey, where the county board is called the board of chosen freeholders (*see*); and with the growth of new states this system has also been established in Michigan, Wisconsin, and in most counties in Illinois. In these states, the supervisors are elected by towns and cities; and in addition to their duties as members of the county boards the town supervisors are also the most important town officials, and the city supervisors also have some special functions.

Boards of supervisors in these states usually have, in distinctly rural counties, from fifteen to twenty-five members. But cities generally have several members and in counties containing a large city the total number of members is sometimes as high as fifty; while in a few sparsely settled counties there are only four or five organized townships and the same number of members. The city representation, however, is not in proportion to population; and the rural sections of a county nearly always control the boards of supervisors.

These large boards of supervisors, are apparently organized as a local legislative body; but their functions are for the most part administrative, and in this respect they appear to be less effective bodies than the small boards of county commissioners. In several Michigan counties a good deal of administrative work has been transferred to small boards of county auditors (*see*); and in Cook county, Illinois, the president of the board of fifteen county commissioners has a veto power and the power to appoint most of the appointive county officers.

In several other states there are county boards of supervisors composed of a smaller number of members elected by districts. In Iowa and Nebraska the county boards of supervisors have from three to seven members; and in these states the supervisors are not town officers. In Virginia each county has a board of supervisors, elected by magisterial districts, of which there are from three to eight in each county; and in Mississippi each county has a board of five supervisors elected by districts. In California, each county has a board of supervisors of three to seven members, except in San Francisco where there is a board of twelve supervisors elected at large, which acts both as county board and as city council.

Boards of supervisors have similar powers to county commissioners (*see*). They levy county taxes and supervise county finances; they have charge of county buildings, county roads, and poor relief. Their ordinance and legislative powers are as limited as the boards of county commissioners, except in Michigan, where, by an Act of 1909, the county boards of supervisors have been granted a broad and general power of local legislation, subject to the general laws of the state, and also to the right of a local referendum.

See COUNTY COMMISSIONERS; COUNTY GOVERNMENT; COURT, COUNTY.

References: J. Fiske, *Civil Government* (1890), 79, 92; G. E. Howard, *Local Constitutional Government* (1889), I, 169 et seq; J. A. Fairlie, *Local Government* (1906), 175; E. W. Bemis, "Local Government in Michigan and the Northwest" in Johns Hopkins University, *Studies*, I (1883), ch. v, 15, 17, 18; Statute laws of the central and western states.

J. A. FAIRLIE.

SUPPLIES AND ACCOUNTS, BUREAU OF.

The Bureau of Supply and Accounts is one of the bureaus of the United States Navy Department (*see*). It is under the management of the Paymaster General of the Navy, and handles the moneys appropriated for the construction of vessels, the purchase of equipment and supplies, and the payment of officers and men. References: Secretary of the Navy, *Annual Reports*; J. A. Fairlie, *National Administration of the U. S.* (1905), 160. A. N. H.

SUPPLY AND DEMAND. In a given market, the supply of a commodity is the quantity (number of units) of that commodity which sellers might be induced to part with. The demand for a commodity is the quantity which buyers might be willing to take. In both cases, the quantity depends upon value, as denoted by price. By lowering price, sellers may increase demand. By raising their offers, buyers stimulate an increase in supply. The price at which demand and supply become equal is the market ("equilibrium") price. If this price be much above the cost of producing the commodity, excepting monopolies (*see*), the equilibrium is only temporary; because sellers, perhaps also producers, find profit in increasing the supply. Similarly, a price much below the cost of producing the commodity is temporary, because the resulting loss ultimately causes a shrinkage of supply. Hence relatively stable equilibrium between supply and demand is attained only at a price which is determined by the cost of producing the commodity. The foregoing principles are modified and complicated by many considerations; such as time, distance, new inventions, change of process, exhaustion of materials, nature of the industry as primarily affecting supply; and change of population, taste, fashions, use of substitutes as affecting demand. See EXCHANGE, PRINCIPLES OF. References: A. Marshall, *Principles of Economics* (6th ed., 1910), Bk. V; J. S. Nicholson, *Principles of Pol. Economy* (1897), II, Bk. III., chs. iv-vi.

E. H. V.

SUPREME COURT OF THE UNITED STATES.

At the head of the federal judiciary, and through its appeal jurisdiction at the head of the whole judicial system of the United States, is the Supreme Court of the United

States. The idea of a supreme central judiciary was familiar to the colonies through the possibility of taking appeals from the highest colonial courts to the privy council in England. The practice was infrequent; but during the Revolution inconveniences arose through conflicts of state jurisdiction in such questions as boundaries, and prize law; and there was little difficulty in securing in the Federal Convention (*see*) a federal Supreme Court, with final jurisdiction, partly original, and partly appeal, in cases where states were parties, and in cases involving the construction of the Federal Constitution.

Under the Constitution there must be a Supreme Court (Art. III, Sec. i), but the details of its organization are left to statutes. Accordingly the number of judges has varied at different times from 6 to 10 and is now 9 (1913). After the Civil War, Congress voted to reduce the number of the judges so as to prevent Andrew Johnson from making appointments. In two instances also Congress has with set purpose interfered with the operation of the Court: (1) by postponing the term of court which would normally have come from December, 1801, to December, 1802, so as to prevent any interference with Jefferson's organization of administration (*see* MARBURY *vs.* MADISON); (2) in Johnson's administration a class of cases was removed from the jurisdiction of the Supreme Court to prevent ruling upon the President's orders.

By statute one of the judges is Chief Justice (*see*). Salaries of the judges have always been low for men in that kind of profession, and are now \$12,500. Besides the Chief Justices the court has included some of the great jurists in the country, such as James Wilson, Joseph Story, B. R. Curtis, Samuel F. Miller, David J. Brewer.

The Supreme Court always sits in Washington. Nominally each justice is also a justice of one of the circuit courts, but they have long since ceased to sit on any except Supreme Court Cases. The Supreme Court never hears jury trials, but hears oral argument of counsel and takes printed briefs. After argument the Chief Justice subdivides the cases, and the opinions written by individual judges are then brought in for private discussion by the whole body. An opinion concurred in by a majority of the judges is the opinion of the court; but justices frequently file dissenting opinions; and on some important suits like the income tax cases of 1894, and the Insular Cases of 1900, it is difficult to find any opinion in which a majority of the judges completely concurs. The decisions of the Court are taken down by an official court reporter, and are also printed as fast as they come out by a private firm which makes a business of issuing court decisions.

The Supreme Court is much behind its docket. In 1910, 1,182 cases were filed for adjudi-

cation. During the term the court was able to dispose of only 502 cases, so that when it adjourned in the summer of 1912 there remained 680 cases on file. The number of cases on file June, 1913, awaiting decision, was 604. The Supreme Court, like every other body of public men, is much influenced by public opinion, and notwithstanding the principle of using its former opinions as precedents it has several times reversed itself, as in the *Insular Cases* (*see*), and in the decisions on the Sherman Anti-Trust Act (*see*).

See CASES, SIGNIFICANCE OF IN CONSTITUTIONAL LAW; CONSTRUCTION AND INTERPRETATION; COURTS, FEDERAL; COURTS AND UNCONSTITUTIONAL LEGISLATION; JUDGES, FEDERAL; JUDICIARY AND CONGRESS; JUDICIARY AND JUDICIAL REFORM.

References: W. W. Willoughby, *Supreme Court of the U. S.* (1890); H. L. Carson, *Hist. of the Supreme Court of the U. S.* (1892); A. B. Hart, *Actual Government* (rev. ed., 1908), §§ 136-138, *Salmon P. Chase* (1899), xiv, xv.; S. E. Baldwin, *Am. Judiciary* (1908); bibliography in A. B. Hart, *Manual* (1908), § 114. ALBERT BUSHNELL HART.

SUPREME COURT OF THE UNITED STATES, JUSTICES OF. Following is a list of justices of the Supreme Court of the United States, since the establishment of the federal judiciary in 1789:

1789 (Sept. 26)-1795, John Jay (Chief Justice; resigned).
 1789 (Sept. 26)-1791, John Rutledge (resigned).
 1789 (Sept. 27)-1810, Wm. Cushing (died in office).
 1789 (Sept. 29)-1798, James Wilson (died in office).
 1789 (Sept. 30)-1796, John Blair (resigned).
 1790 (Feb. 10)-1799, James Iredell (died in office).
 1791 (Aug. 5)-1793, Thomas Johnson (resigned).
 1793 (Mar. 4)-1806, Wm. Paterson (died in office).
 1796 (Jan. 27)-1811, Samuel Chase (died in office).
 1796 (Mar. 4)-1800, Oliver Ellsworth (Chief Justice; resigned).
 1798 (Dec. 20)-1829, Bushrod Washington (died in office).
 1799 (Dec. 10)-1804, Alfred Moore (resigned).
 1801 (Jan. 31)-1835, John Marshall (Chief Justice; died in office).
 1804 (Mar. 26)-1834, Wm. Johnson (died in office).
 1806 (Nov. 10)-1823, Brockholst Livingston (died in office).
 1807 (Mar. 3)-1826, Thomas Todd (died in office).
 1811 (Nov. 18)-1815, Joseph Story (died in office).
 1811 (Nov. 18)-1825, Gabriel Duvall (resigned).
 1823 (Dec. 9) 1842, Smith Thompson (died in office).
 1826 (May 9)-1828, Robert Trimble (died in office).
 1829 (Mar. 7)-1861, John McLean (died in office).
 1830 (Jan. 6) 1844, Henry Baldwin (died in office).
 1835 (Jan. 9)-1864, James M. Wayne (died in office).
 1836 (Mar. 15)-1864, Roger B. Taney (Chief Justice; died in office).
 1836 (Mar. 15)-1811, Philip P. Barbour (died in office).
 1837 (Mar. 4)-1865, John Catron (died in office).
 1837 (Sept. 25)-1852, John McKinley (died in office).
 1841 (Mar. 3)-1860, Peter V. Daniel (died in office).
 1845 (Feb. 14)-1872, Samuel Nelson (retired).
 1845 (Sept. 20)-1851, Levi Woodbury (died in office).
 1846 (Aug. 4)-1870, Robert Grier (retired).
 1851 (Sept. 22) 1857, Benjamin R. Curtis (resigned).
 1853 (Mar. 22) 1861, John A. Campbell (resigned).
 1858 (Jan. 12)-1881, Nathan Clifford (died in office).

1862 (Jan. 24)-1881, Noah H. Swayne (retired).
 1862 (July 16)-1890, Samuel F. Miller (died in office).
 1862 (Dec. 8)-1877, David Davis (resigned).
 1863 (Mar. 10)-1897, Stephen J. Field (retired).
 1864 (Dec. 6)-1873, Salmon P. Chase (Chief Justice; died in office).
 1869 (Dec. 20)-1869, Edwin M. Stanton (died 1869; never served).
 1870 (Feb. 18)-1880, William Strong (retired).
 1870 (Mar. 21)-1892, Jos. P. Bradley (died in office).
 1872 (Dec. 11)-1882, Ward Hunt (retired by special act of Congress).
 1874 (Jan. 21)-1888, Morrison R. Waite (died in office).
 1877 (Nov. 29)-1911, John M. Harlan (died in office).
 1880 (Dec. 21)-1887, William B. Woods (died in office).
 1881 (May 12)-1889, Stanley Matthews (died in office).
 1881 (Dec. 20)-1902, Horace Gray (died in office).
 1882 (Mar. 27)-1893, Samuel Blatchford (died in office).
 1888 (Jan. 16)-1893, Lucius Q. C. Lamar (died in office).
 1888 (July 20)-1910, Melville W. Fuller (Chief Justice; died in office).
 1889 (Dec. 18)-1910, David J. Brewer (died in office).
 1890 (Dec. 29)-1906, Henry B. Brown (retired).
 1892 (July 26)-1903, George Shiras, Jr. (retired).
 1893 (Feb. 18)-1895, Howell E. Jackson (died in office).
 1894 (Feb. 19), Edward D. White (Chief Justice; Dec. 12, 1910).
 1895 (Dec. 9)-1909, Rufus W. Peckham (died in office).
 1898 (Jan. 21), Joseph W. McKenna.
 1902 (Dec. 4), Oliver W. Holmes.
 1903 (Feb. 25), William R. Day.
 1906 (Dec. 17)-1910, William H. Moody (retired by special act of Congress).
 1909 (Dec. 20)-1914, Horace H. Lurton (died in office).
 1910 (May 2), Charles E. Hughes.
 1910 (Dec. 16), Willis Van Devanter.
 1910 (Dec. 17), Joseph R. Lamar.
 1912 (Mar. 13), Mahlon Pitney.

Reference: List of judges at front of U. S. Supreme Court, *Reports*, year by year.

ALBERT BUSHNELL HART.

SURGEON GENERAL. The Surgeon General is the head of the medical department of the United States Army. This department is charged with the protection of the health of officers and enlisted men, with the maintenance of sanitary conditions in barracks, posts and fortified places, with the care of the sick and the maintenance of hospitals and with the supervision of tests for physical disability of commissioned officers and enlisted men. See ARMY, STANDING; HOSPITALS, PUBLIC. References: Secretary of War, *Annual Report*; J. A. Fairlie, *National Administration of the U. S.* (1905) 143; C. H. Van Tyne and W. G. Leland, *Guide to the Archives* (2d ed., 1907), 124. A. N. H.

SURROGATE'S COURT. See COURT, SURROGATE'S.

SURVEYOR OF CUSTOMS. The surveyor is an outdoor officer of a customs port of entry, who has charge of the force of inspectors, weighers, measurers, and gaugers. He supervises the discharge of the cargoes and the admeasurement of vessels for registry and determination of the tonnage tax. See COL-

LECTOR OF CUSTOMS; TARIFF ADMINISTRATION. Reference: J. D. Goss, *Tariff Administration of the U. S.* (1891). D. R. D.

SURVEYORS, OFFICIAL. The title applied to the following classes of officials: (1) surveyors of customs, officers at ports of entry superintending the inspectors, weighers, measurers and gaugers; (2) surveyors general, officers who under the direction of the commissioner of the General Land Office of the Department of Interior supervise the surveys of public land; (3) county surveyors, county officials (usually elected) found in nearly all the states outside of New England. The title is not officially applied to the officials of the chief surveying bureaus of the government, *i. e.*, Coast and Geodetic Survey, Engineer Corps of the Army, and Geological Survey. See PURE FOOD; TARIFF ADMINISTRATION; WEIGHTS AND MEASURES, STANDARDS OF. Reference: J. A. Fairlie, *Local Government* (1906), 135.

O. C. H.

SURVEYS OF LAND. Most important of all the provisions of the National Land Ordinance of 1785 was that which required rectangular surveys before any land could be offered for sale, and this condition was insisted upon even at the cost of delayed sales and increased expense. This system of surveys has been of inestimable value in the orderly settlement of the great west. It provided definite bounds, free from overlapping claims, to every land holder; it gave a security against lost or forgotten bounds; it rendered possible the simplest kind of a deed. The surveyors were required to report on the quality of the lands and the natural phenomena coming under their observation, and thus a great amount of reliable information was obtained during the extension of the surveys.

Prior to the Revolution each colony disposed of its land in its own way. In general, the southern colonies made use of land warrants which might be located on any unappropriated land. This frequently resulted in overlapping surveys and litigation. In New England the system of surveying townships, sometimes six miles square, with the minor divisions set off by the local government, was worked out. The six mile township was incorporated in the national system, but the subdivision into lots (later "sections"), one mile square, was new. The first surveys were of the "Seven Ranges" in Ohio, 1785-89. The surveys were criticized as being costly and slow, and efforts were made until 1796 to substitute the southern system of "indiscriminate location" by means of land warrants, the evils of which were later evident in Kentucky and Tennessee. The presence of private and Indian lands prevented the regular extension of the surveys, so that in Ohio six distinct surveying areas are found, as well as four privately surveyed tracts.

To meet this problem the system of principal meridians and base lines, on which to base the surveys, was evolved. The first principal meridian was the boundary between Ohio and Indiana, and from time to time others were determined as the surveys were extended. The base lines run at right angles to the meridians, on a true parallel of latitude, and correction lines are run every twenty-four miles north and south. Guide meridians extend north from the base or correction lines at intervals of twenty-four miles east and west of the principal meridian. Public lands are surveyed into townships, six miles square, containing approximately 23,040 acres. Townships lying in order north and south constitute a "range." Townships are surveyed in sections of 640 acres, and may be subdivided into quarter-quarter-sections (forty acres), and in certain cases into ten acre tracts. Mineral surveys are not bound by the regular system (see MINERAL LAND). The surveys have generally been executed under contract, the cost varying from \$3.00 to \$25.00 a mile. In 1910 the contract method, which had occasioned great frauds, was abandoned, and surveys are now made exclusively by government employees. The following is the official description of a forty-acre lot: "SE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec. 36, T. 6 N., R. 34 E. of the principal meridian in Montana." Area surveyed to June 30, 1912, 1,193,320,614 acres.

See BOUNDARIES OF THE UNITED STATES, INTERIOR; GEOLOGICAL SURVEY; LAND OFFICE OF THE UNITED STATES; PUBLIC LANDS, RESERVATION OF.

References: Thos. Donaldson, *Public Domain* (1884); P. J. Treat, *National Land System, 1785-1820* (1910), 179-197; A. C. Ford, "Colonial Precedents of Our National Land System as it existed in 1800" in University of Wisconsin, *Bulletin* (1910); Public Lands Commission, *Report* (1905), 127-130.

P. J. TREAT.

SUSPENSION OF SENTENCES. See PRISONERS, PROBATION OF.

SUZERAINTY. The source of power as regards international status in a state under suzerainty is derived from the suzerain, or the state or monarch upon which the political unity is dependent. The states of India are "under the suzerainty" of the British Crown, and have no right to enter upon independent foreign relations. Bulgaria by the Treaty of Berlin and till 1908 was "an autonomous tributary principality, under the suzerainty of the Porte." Egypt, while technically under the suzerainty of the Porte, is largely influenced in her international affairs by British advisers and is received in some international conferences as a state. While in a theoretical sense the power of a state under a suzerainty is derived from a suzerain, in fact the amount of

power and the method of its exercise differ greatly in the different instances. See DEPENDENT STATES; PROTECTORATES; STATES, EQUALITY OF; SOVEREIGNTY, THEORY OF. References: J. Westlake, *Int. Law* (1904), I, 23 *et seq.*; L. Oppenheim, *Int. Law* (1912), I, 140 *et seq.*

G. G. W.

SWALLOW TAILS. A derisive term applied to men prominent in fashionable circles who have gained some influence in politics, said to have been thus used first by John Morrissey in New York in 1876. See SILK STOCKINGS.

O. C. H.

SWAMP LANDS. Believing that the states could reclaim the overflowed lands within their limits more effectively than the national Government, Congress by the act of Mar. 2, 1849, granted to Louisiana, and by the act of Sept. 28, 1850, to all the states, such lands to aid in the construction of levees and drains. The grant was extended to Minnesota and Oregon in 1860. An indemnity was made in the case of lands disposed of by the Federal Government prior to Mar. 3, 1857, a cash payment being made for land sold, and scrip being issued where the land was located by scrip or warrant. By 1912, 64,700,000 acres had been patented to 15 states. See CONSERVATION; PUBLIC LANDS AND PUBLIC LAND POLICY; PUBLIC LANDS, STATE. Reference: T. Donaldson, *Public Domain* (1884).

P. J. T.

SWEATSHOPS. Definition.—Industries are "sweated" which do not pay their workmen a living wage, although very long hours of work prevail under sanitary conditions injurious to the persons employed and dangerous to the public. Sweating in the United States occurs mainly in the garment-making, cigar-making, and bakery industries. Typically it is carried on through subcontractors who secure the work from manufacturers and sublet it to the sweated workmen, to be finished in their homes or in small workshops in the back rooms of tenement houses. In recent years the subcontractor has often been eliminated without any real improvement in conditions. The fundamental cause for the existence of the sweatshop is the presence of an oversupply of unskilled labor in the large cities, created mainly by the heavy immigration in the last decades from southern and eastern Europe.

Legislation Upon Sweating.—Governmental efforts to deal with the sweating problem have in this country proceeded from the necessity of safeguarding the public health. Laws have prescribed where workshops may be located, how many persons may work in them, how they shall be ventilated, and in general, how they may not be conducted. A number of states require that all sweatshops be licensed. Unfortunately legislation of this character does little to raise the standard of living of the

workers in the sweated industries, and the enforcement of these laws has been found extremely difficult.

In Victoria, New South Wales, and in England, direct efforts are made to guarantee a living wage to the sweatshop workers. Boards have been established in these countries for some of the sweated industries—especially chain making—to prescribe the minimum wages which may be paid in them. During the year 1911 bills containing similar provisions were introduced in several American state legislatures. In Australia the minimum wage laws have resulted in almost wholly wiping out the sweatshop evil. In the United States such legislation would probably need to be supplemented by laws materially cutting down the number of unskilled immigrants.

See ARBITRATION OF LABOR DISPUTES; FACTORY LEGISLATION; HEALTH, PUBLIC REGULATION OF; LABOR, PROTECTION TO; LABOR, WOMEN'S, LEGISLATIVE CONTROL OF; MANUFACTURING, RELATION OF GOVERNMENT TO; STRIKES; TENEMENT HOUSE REGULATION.

References: U. S. Industrial Commission, *Report*, XV (1901), 316-84; N. Y. Bureau of Labor Statistics, *Report* (1902), 1-28, 37-281; F. Kelley, *Some Ethical Gains Through Legislation* (1905), 209-255.

J. R. COMMONS.

SWINGING ROUND THE CIRCLE. A phrase applied by the press to President Andrew Johnson's (*see*) tour through the chief cities of the North, in the autumn of 1866.

O. C. H.

SWITZERLAND, DIPLOMATIC RELATIONS WITH. Although in May, 1847, a convention concerning property rights was negotiated between Secretary Buchanan and the Swiss consul at Alexandria, regular diplomatic relations began in 1850 with the appointment of A. Dudley Mann as special agent to negotiate a convention of friendship, commerce and extradition, which was ratified in amended form in 1853. Theodore S. Fay, first American minister resident, was commissioned March 16, 1853. The Swiss constitution of 1848, following a war of secession, was much influenced by the American federal system.

Throughout the American Civil War Switzerland sympathized with the American Federal Government. The only source of complaint was the Swiss passport requirement. A revision of the Swiss constitution in 1874 made it still more like that of the United States.

In the quarter century which followed, the principal subjects of diplomatic discussion related to increased Swiss emigration to the United States, including questions of expatriation and repatriation, naturalization and citizenship, military service and taxes. In 1879-82 the United States protested against violations of the emigration laws by Swiss local

officials who seemed disposed to utilize the United States as an outlet for paupers and other undesirable persons—including Mormons. Complaint was also made in regard to the refusal of the communal authorities to recognize American naturalization.

From 1884 on the United States made repeated but ineffectual efforts to secure a naturalization treaty for the better security of the rights of its citizens of Swiss origin; but the Government of Switzerland declined (1885 and 1896) to consider a convention which it regarded beyond the power of the federal council to negotiate under the Swiss constitution. In this connection the question of the military tax, required of American citizens of Swiss origin who had returned to visit or reside in Switzerland, became prominent. The United States maintained the right of expatriation and denied the doctrine of perpetual allegiance; but was not disposed to insist on the application of her principle in unworthy cases.

Near the close of the century, the question of trade reciprocity became prominent. In 1898, basing her action on the "most favored nation" clause of the treaty of 1850, Switzerland demanded reciprocity concessions which had been granted France; but the American Government, referring to an unbroken line of precedents, replied that American policy had regarded a reciprocity treaty as a bargain and not as a favor. The controversy closed by the required year's notice which (in March, 1900) terminated the operation of clauses which under the interpretation of Switzerland would have been an exception to the otherwise uniform American policy. On January 1, 1906, President Roosevelt proclaimed a reciprocity agreement which terminated October 31, 1909.

An extradition treaty, terminating articles of the amended convention of 1850-55, was signed May 14, 1900, and an arbitration convention on February 29, 1908.

See CITIZENSHIP IN THE UNITED STATES; COMMERCIAL POLICY AND RELATIONS OF THE UNITED STATES.

References: J. B. Moore, *Digest Int. Law* (1906), III, 658-678, V, 865; *Foreign Relations, 1861-1912*; W. M. Malloy, *Treaties and Conventions* (1910), 1762-1777.

J. M. CALLAHAN.

SWITZERLAND, FEDERAL GOVERNMENT IN. Comparison with United States.—Federal government in Switzerland is based upon the constitution of 1848 and amendments which have been made from time to time. The framers of the constitution had the example of the United States consciously in view and imitated in some respects the organization of that union. This was particularly true in respect to the outward form of the national legislature, which consists of a lower house, *Nationalrat*, representing population by districts, and a senate, *Ständerat*, chosen by the govern-

ments of the cantons, or states. Like the United States the nation was built of states, but in Switzerland the previous history of the states extended over a period of nearly five centuries, during which time united action had been spasmodic only, and the sense of state sovereignty had become exceedingly strong. This condition must be kept in mind while considering, not only the task of forming the constitution of 1848, but also the problems of the political life which have since followed.

Legislature.—The *Nationalrat* is elected by universal manhood suffrage, at the rate of one member to 20,000 population and any voter not in clerical orders can be chosen. Voting citizenship is governed by cantonal law and differs in the various states, but in general the regulations produce a decidedly democratic basis for the national legislature. The *Ständerat*, consists of 44 members representing the 22 cantons, which elect their members in any manner they may prefer, varying from pure democracy in the *Landesgemeinde* to choice by representative legislatures. The difference between the chambers is further emphasized by the provision that members of this senate are paid by their states, while representatives draw upon the national treasury. As a matter of fact the *Nationalrat* is the more important of the two bodies, for the *Ständerat* is not only mentioned second in order in the constitution, but has never been endowed with the high functions nor taken the important position of the American Senate.

Executive.—The federal executive authority is vested in the *Bundesrat*, a Cabinet of seven members among whom the duties of the various departments are distributed. This body is elected every three years by the united houses of the legislature, who also designate each year one member of the Cabinet to act as *Bundespräsident*. The president of the Swiss Republic, therefore, is merely the annual chairman of the Cabinet. For that year he is the medium of communication with foreign diplomats and the nominal chief of the state, but acts under no special political mandate like that of an American President or an English prime minister. His election attracts no attention, for the administrative responsibility rests upon the Cabinet as a whole, and each member in rotation acts as president.

Judiciary.—The highest judicial authority is placed in the hands of the *Bundesgericht*, a supreme court whose members are elected by the national legislature. Its functions include contentions between cantons and between federation and cantons, as well as private litigation of sufficient importance. The *Bundesgericht*, on the other hand, is not competent to consider the constitutionality of federal law. The constitution expressly declares that the acts of the legislature shall be conclusive for the decisions of the federal court. Many difficulties, however, are prevented in advance

by the rule that all revisions of cantonal constitutions must be submitted to the *Bundesrat* for ratification and, if matters incompatible with the federal constitution are found, the points are referred back to the canton until properly adjusted.

Powers of Government.—The powers of the federal government have been from time to time increased by amendments to the original constitution. Any assumption of new powers by interpretation or by construction is prevented by the declaration of Article III, that the cantons are sovereign, in so far as their sovereignty is not restricted by the federal constitution, and exercise all rights which have not been assigned to the federal government. At present the confederation is endowed with the authority usually found in a republic, in some cases possessing powers which are not found in the United States Government. With foreign nations it has exclusive treaty making power. The national defense through military organization rests upon the central government which uses the cantonal officials in its administration. No standing army is permitted but an elaborate militia system under federal direction is capable of putting an effective force of 200,000 men at once into the field. The federal government has power to maintain a university and a technical institute but has, to the present time (1914), confined its activity to the latter.

The supervision of streams and forests accompanies the power to carry on public works of correction and preservation. Regulation of fisheries and the hunting of higher game are also within the competence of the confederation. At first given control of the post office, it has proceeded by degrees to the monopoly of the telegraph and telephone. Still later it was authorized to purchase the railways of the country and now with the exception of a few short lines the federal government is in full control of that form of transportation. Since 1887 the control of the manufacture of alcohol has been a federal monopoly. The net income is divided pro rata among the cantons. A recent constitutional amendment gave the government power to prohibit the manufacture and sale of absinthe, and a federal law on this subject went into effect in 1910. A national bankruptcy act regulates the law of contracts throughout the confederation. In 1910 there also went into effect a federal system of invalid and accident insurance.

The foregoing examples show that although the administrative officials lack certain independent powers found in the United States, the Swiss federal government has in numerous directions proceeded much further in the centralization of important activities. The developments since 1848 have been brought about

through amendments to the constitution, which can be revised at any time. These amendments can be effected at the suggestion of the legislature or through popular initiative and referendum. Since 1891 the legislative initiative has also been possible and all of the important changes have in one form or another been indorsed by the people.

See FEDERAL STATE; STATES, CLASSIFICATION OF; UNITES STATES AS A FEDERAL STATE.

References: J. S. Hollenberger, *Die Schweizerische Eidgenossenschaft von 1874 bis auf die Gegenwart* (1910); C. Hilty, *Politisches Jahrbuch der Schweizerischen Eidgenossenschaft, 1886-1912* (annual); J. M. Vincent, *Government in Switzerland* (1900).

J. M. VINCENT.

SYMMES PURCHASE. John Cleve Symmes, of New Jersey, contracted with Congress, on Oct. 15, 1788, for the purchase of 1,000,000 acres of land on the Ohio. The city of Cincinnati was founded on this tract. Eventually title passed for 248,540 acres, for which Symmes paid \$70,455 in securities, and bounty warrants equivalent to 95,250 acres. See OHIO COMPANY; PUBLIC LANDS AND PUBLIC LAND POLICY.

P. J. T.

SYNDICALISM. Syndicalism is a principle of industrial organization which aims at ending present capitalism by combining the industrial workers of the world into an immense industrial union. Its exponent in France is the famous *Confédération Générale du Travail*, and it is represented in America by the Industrial Workers of the World (I. W. W.). It holds that "the working class and the employing class have nothing in common." The platform of the Industrial Workers of the World states that "between these two classes a struggle must go on until the workers of the world organize as a class, take possession of the earth and the machinery of production, and abolish the wage system." It would accomplish its ends by direct action, its chief instrument being the general strike. Revolting against socialism, it repudiates state action and would depend upon force, active or passive, to effect change with revolutionary suddenness. See LABOR ORGANIZATIONS. References: J. G. Brooks, *American Syndicalism* (1913); J. R. Macdonald, *Syndicalism* (1913).

K. F. G.

SYSTEM, THE. A term coined by anti-trust propagandists about 1900 to denote the money power of the great corporations taken in a collective sense; used especially to denote the financial interests of the country organized for the purpose of influencing government and legislation. See INTERESTS.

O. C. H.

T

TAFT, WILLIAM HOWARD. William H. Taft (1857—), twenty-seventh President of the United States, was born at Cincinnati, Ohio, September 15, 1857. In 1880 he was admitted to the bar. In 1887 he was appointed judge of the superior court of Cincinnati, and the next year was elected for a five year period, but resigned in 1890 to become solicitor general of the United States. In 1892 he was appointed United States circuit judge for the sixth circuit, resigning in 1900 to become president of the Philippine Commission.

In July, 1901, he was appointed first civil governor of the Philippine Islands, but gave up the duties of the office in November on account of illness. In 1902 he negotiated with Pope Leo XIII a settlement of the "friars' lands" question, and in August returned to the Philippines and resumed his duties as governor. In February, 1904, he was appointed Secretary

of War. In 1906 he was for a short time, provisional governor of Cuba, and in 1907 opened the first Philippine assembly at Manila.

In 1908 he was nominated by the Republican national convention at Chicago for President, and was elected, receiving 321 electoral votes against 162 for William J. Bryan.

In June, 1912, after a heated preconvention campaign in the Republican party, he was renominated, but was defeated in the November election by Woodrow Wilson, the Democratic candidate. Upon the expiration of his term of office he assumed the duties of the Kent professorship of law at Yale University.

See PHILIPPINE ISLANDS; RECIPROCITY POLICY; REPUBLICAN PARTY.

References: Philippine Commission, *Annual Reports* (1900-1904); Secretary of War, *Annual Reports* (1904-1908); *Am. Year Book*, 1910, and year by year. W. MACD.

TAMMANY

Basis of Power.—Tammany Hall, or the "Democratic-Republican Organization of the County of New York" is the most notorious political organization in the United States. Located in New York City, it forms a unit of the national Democratic party with which it has been affiliated from the beginning. This connection, which gives to Tammany the standing of the regular Democratic organization in New York county, is one of its great sources of strength. Tammany enjoys the reputation of a thoroughly corrupt political organization and the uncovering of a number of scandals of great magnitude, notably the stealings of the Tweed Ring, has at times led to its defeat and temporary effacement; but the fact that it has been able to maintain recognition as the regular unit of the national party has been the cause of its invariable restoration to power and its return to local control. The Tammany organization is confined to New York county, comprising the boroughs of Manhattan and the Bronx, but it is very closely affiliated with the local Democratic organizations in the counties of Kings, Queens and Richmond, which, together with New York county, make up the greater city (see NEW YORK CITY).

History.—The name of the organization is derived from an Indian chief, Tamanend, or Tammany. Before the Revolution there existed patriotic societies known as the Sons of

Saint Tammany, which disappeared, however, after the close of the war. The present organization dates from May 12, 1789, when the "Society of Saint Tammany, or Columbian Order," was founded in New York by William Mooney, an ex-soldier and an upholsterer by trade. In 1805 the society obtained a charter of incorporation as a benevolent and charitable body. Previously, however, it had become a political factor, strongly partisan and Anti-Federalist. As a political factor Tammany has been known as Tammany Hall from the fact that its meetings have been held in the hall belonging to the Tammany Society, but no clear distinction between the two organizations can be maintained. The leaders, or "sachems" of the society have held control of the political organization and have been and are today chosen from the prominent members of the Hall.

Aaron Burr was the first real leader of Tammany. His influence, in the main, transformed it into an active party agency and secured the introduction of the methods of party control and party machinery for which Tammany has stood ever since as the chief exponent. Throughout the long period of Democratic supremacy in the national Government, Tammany fattened on the federal patronage and continued its active warfare for local control in state and city. It applauded the War of 1812,

strongly supported Jackson in his banking and spoils policies, and, with the influx of foreign population abandoning its policy of standing as a native American organization, admitted foreigners to its ranks and provided for their rapid naturalization. It supported such popular issues as the broadening of the franchise and abolition of imprisonment for debt. Its history down to the middle of the century was replete with scandals and peculations by its leaders which from time to time proved so nauseous as to lead to its defeat at the polls, but it should be borne in mind that this was not a period of high political morality.

Politics, in the city, had reached a very low ebb by 1850. Turbulence was the rule, repeating was a common practice, and dishonesty was rife among the city officials. The Common Council of 1852, controlled by Tammany, became so notorious for its corruption and extravagance that it earned for itself the title of the "Forty Thieves Council." In 1855 Fernando Wood began his career as mayor of the city. He was an expert organizer and political manipulator and under him the saloon element came into control. He served as mayor from 1855 to 1858, but in December, 1857, he was defeated through the opposition of the Tammany organization, with which he had broken. Undismayed, he formed a competing Democratic organization known as Mozart Hall and secured reelection in 1859.

The next great figure in Tammany Hall was William M. Tweed (*see*), the first real "boss." Wood's career had shown the possibilities for personal enrichment, and Tweed followed in his footsteps. Born in the city in 1823, Tweed first became prominent as a volunteer fireman and was elected foreman of his company. His great popularity led to his becoming a political ward leader. His rise to political control was rapid. He became sachem and later grand sachem of the Tammany Society and secured absolute control of Tammany Hall. He was in turn elected assistant alderman, member of Congress and member of the board of supervisors, and later became deputy street commissioner, commissioner of public works and state senator, in which position he controlled legislation affecting the city and dominated the legislature. Associated with him in the notorious Tweed Ring were Peter B. Sweeny, city chamberlain, Richard Connolly, comptroller, A. Oakey Hall, mayor of the city from 1869 to 1872, and others of lesser importance. Obtaining control of all branches of the city government by 1868, the Ring instituted a reign of loot such as had never before been witnessed and has not since been equalled. Profits were taken from the sale and barter of offices, including judicial offices; from the letting of contracts on all kinds of public works; from the granting of franchises; from the purchase of supplies; from "strike" legislation for securing the passage or defeat of bills. These

were divided on a percentage scale among the members of the Ring, the lion's share going to Tweed himself. The judiciary was corrupted and became a valuable adjunct of the Ring. To make his control more secure, Tweed by the liberal use of money, secured the passage of a new charter for the city, in 1870. Unbridled greed eventually led to the downfall of the Ring in 1871. It was stated that over \$10,000,000 had been squandered in the erection and repair of the county court house alone. As first the Ring professed no concern over the disclosures. When questioned in regard to the charge, Tweed made his famous reply, "What are you going to do about it?" But the people were thoroughly aroused. Between sixty and seventy millions had been added to the permanent debt of the city during the four years of Ring control. A Committee of Seventy was formed in September, 1871, which brought about the destruction of the Ring. Tweed was tried and convicted. Released after one year on a decision by the court of appeals, he was immediately rearrested in a civil suit, escaped to Cuba, was recaptured and died in prison in 1878. The total stealings of the Ring have been variously estimated from \$45,000,000 to \$200,000,000, of which the city succeeded in recovering only \$876,000.

Following the fall of Tweed, Tammany was in such bad odor that it seemed to many it could never recover. There was, however, no other organization in the field strong enough to take its place as the regular Democratic organization of the city, and quickly, by adroit management and with a certain purging of its leadership, it arose again to a position of commanding strength. John Kelly was its next leader, or boss. In 1874, only three years after the downfall of the Tweed Ring, it succeeded in electing its candidate for mayor. Kelly remained in absolute control of the organization until his death in 1886. He was succeeded by Richard Croker, who retired in 1902 with a large fortune to take up residence in Ireland and is still alive (1914). After his retirement the organization was ruled for a short time by a committee, but it was inevitable that the boss should emerge and he came forth in the person of Charles F. Murphy, an ex-saloon-keeper and former dock commissioner, who held a position in absolute control of the organization down to 1914, and greatly extended its power in the state. In 1909, however, partial control of the city of New York was lost, Tammany electing only the mayor; and in 1913 an overwhelming defeat was incurred at the hands of a fusion ticket in the city, while the elections throughout the state were also disastrous to the organization.

Organization.—The paper organization of Tammany as a political body is laid down in the rules and regulations of the Democratic-Republican Organization of the County of New York. In each assembly district there is an

association composed of all the voters enrolled as members of the Democratic party. They elect the general or county committee, which now numbers over 5,000. This is in name, the governing body; it is called upon to meet monthly, except in June, July and August and has its full quota of officers and committees. The most important of these is the executive committee, composed of a member from each assembly district, elected annually by the delegation from that district to the general committee. He is the executive member for that district and is usually though not necessarily the district leader. The "boss" has no recognition in the paper organization.

But in reality, the power centers in the boss and he carries out his control through the district leaders, under whom are the district captains for each election district and numerous lieutenants and party workers. The boss always occupies the position of chairman of the finance committee and it is understood that he shall keep no books and shall not be accountable to anybody for sums received or expended.

Methods.—Tammany is not bound to any fixed procedure, and its methods for winning elections and enriching its following vary to such an extent in different times and under different leaders that it is only possible to describe them in general terms. The organization as at present constituted depends for its existence and success upon control of the spoils of office. Officeholders are regularly assessed for campaign funds. Formerly this was done openly, but since the civil service law came into force the levy has been made through the medium of club dues and like expedients. Offices are used for the support and pay of its large working force of leaders, captains and lieutenants, who are to a large extent maintained at the expense of the city, the county and the state. Although the civil service law covers the vast majority of the city offices, the higher administrative positions, commanding the largest salaries, are almost all outside the scope of the rules and it is on the patronage of these, and the control that goes with them, that Tammany largely relies to secure contributions from corporations and individuals. In addition, Tammany has sold the offices, both elective and appointive, and has always exercised a very considerable control over the police force, and evidence has frequently pointed towards its receiving revenue from the protection of vice and crime.

Tammany's strongest hold is in the poorest and most congested districts of the city, largely peopled by foreigners. It maintains this hold through the fact that its leaders have risen from the people and never allow themselves to lose touch with them. These leaders live in their districts, care for their constituents when in trouble, obtain jobs and favors for them and provide for their entertainment, spending large

sums in this work. At district headquarters, expensive clubs are maintained which all the Democratic voters of the district, including the officeholders, are urged to join. The poor of the district are accustomed to go to the district leader in their distress and it is in this paternal relation between the leaders of the organization and the vast numbers of the miserably poor, dependent and ignorant classes of the population of the city that there lies the main secret of Tammany's success.

See MACHINE, POLITICAL; ORGANIZATION; NEW YORK CITY; TWEED RING.

References: E. D. Durand, *Finances of New York City* (1898); D. B. Eaton, *The Government of Municipalities* (1899); G. Myers, *History of Tammany Hall* (1901); J. Macy, *Party Organization and Machinery* (1904), 285-293; C. F. Murphy, "Tammany Society" in *Encyclopedia Americana* (1904); T. Roosevelt, "Machine Politics in N. Y. City" in *Am. Ideals* (1897), 98-128; C. A. Beard, *Readings in Am. Government and Politics* (1911), 581-4.

ELLIOT H. GOODWIN.

TANEY, ROGER BROOKE. Roger B. Taney (1777-1864), Chief Justice of the United States, was born in Calvert County, Md., March 17, 1777. He was admitted to the bar in 1799, and the same year was elected to the legislature as a Federalist. He retired in 1800, and did not enter politics again until 1816, when he became a member of the state senate, retaining his seat until 1821. From 1827 to 1831 he was attorney general of Maryland. By this time he had become a Jacksonian Democrat, and in 1831 was appointed Attorney General of the United States. In 1833, on the refusal of Duane, the Secretary of the Treasury, to remove the deposits from the Bank of the United States, he was transferred to the Treasury Department, and gave the necessary orders for removal. The Senate, however, declared his statement of reasons unsatisfactory, and refused to confirm the appointment; and he accordingly resigned. In 1835 he was nominated for associate justice of the Supreme Court, but confirmation was refused. In 1836 he became Chief Justice. Of his many important decisions, the most notable were: *Charles River Bridge Co. vs. Warren Bridge* (see); *Prigg vs. Pa.*, in 1844 (16 *Peters*, 621); the License Cases, in 1846 (5 *Howard* 504); *Luther vs. Borden* (see), and *Scott vs. Sanford*, in 1857 (19 *Howard* 393), commonly called the Dred Scott Case (see). Taney died at Washington, Oct. 12, 1864. See DRED SCOTT CASE; FUGITIVE SLAVES; SUPREME COURT OF THE UNITED STATES. **References:** S. Tyler, *Memoir of Roger B. Taney* (1872); H. L. Carson, *Supreme Court of the U. S.* (1892); H. von Holst, *Const. and Pol. Hist. of the U. S.* (1877-92), III-VII; T. C. Smith, *Parties and Slavery* (1906); J. F. Rhodes, *Hist. of the U. S.* (1893-1905), II, III. W. MACD.

TARIFF ACTS. General tariffs were passed in 1789, 1816, 1824, 1828, 1832, 1833, 1842, 1846, 1857, 1861, 1883, 1890, 1894, 1897, 1909, 1913. See following acts by name: DINGLEY TARIFF ACT; MCKINLEY TARIFF ACT; MORRILL TARIFF; PAYNE-ALDRICH TARIFF; UNDERWOOD TARIFF ACT; WILSON-GORMAN TARIFF.

TARIFF ADMINISTRATION. Elaborate System.—The administration of the tariff laws devolves upon the Treasury Department. Although import duties are the most important source of revenue, there is no separate bureau for customs, as in the case of the internal revenue. The administration is directly under the care of the Secretary of the Treasury and one of the assistant secretaries (*see* TREASURY DEPARTMENT). At every step of importation the supervision of the Government is far-reaching. It begins when foreign merchandise designed for import into this country is prepared for shipment, by requiring a certification of value before consular officers of the United States abroad. It prescribes methods of entry of goods, of valuation and of classification at the port of entry in order that the proper rates of duties may be applied. It includes an elaborate system whereby appeals may be made either by importers or the Government; it takes charge of the collection of the duties and provides for the storage and warehousing of goods which the importer does not immediately wish to use, and on which the payment of duties may be deferred. For collection of customs the country is divided into districts in each of which there is a port of entry. In several of these ports there is a staff of officials, a collector, appraiser, naval officer, surveyor, inspectors, and gaugers, the number of the latter depending upon the commercial importance of the port. At some of the smaller ports one person may combine two or more offices.

Handling of Imports.—Dutiable merchandise must be discharged at one of the designated ports of entry and no merchandise can be brought by sea in vessels of less than thirty tons. Every arriving vessel must carry a full manifest, or description of the cargo, specifying the ports where the cargo was taken and also the names of the consignees, and must submit this manifest for inspection to revenue officers who may board the vessel before docking. Upon docking, the manifest must be delivered to the collector, who may then issue a permit for the transfer of the cargo.

The unloading is under the supervision of officials (*see* COLLECTOR OF CUSTOMS), and must be accomplished within a certain limited time.

The consignees, or persons to whom the merchandise is sent, must then, in order to obtain the merchandise, present a complete and detailed invoice stating the value of the goods. From this entry or statement the gross amount of duty is computed; and upon payment the

importer is permitted to remove his merchandise except a certain number of packages retained for examination.

The valuation is then made by officials known as appraisers (*see*). When the dutiable value has been ascertained the rate of duty to which the merchandise is subject is determined by the collector of the port. If it then appears that an importer has paid too little or too much an adjustment is made by an additional payment or by a refund of the difference. Should there be dissatisfaction with the appraisal, a reappraisal may be ordered; and appeals may be taken (as to valuation) to the board of general appraisers, and (as to classification or other questions of dispute) to the United States Court of Customs Appeals (*see* APPRAISERS, BOARD OF; COURT OF CUSTOMS APPEALS).

At every step of import, regulations are most minute. A complete account would include rules in regard to packing, stamping, and marking of goods; the transportation of goods in bond, that is, the shipment to the interior under custody of the Government to be cared for at interior custom houses, or in transit to foreign countries; the management of bonded warehouses; the supervision of cartage and lighterage; and the imposition of fines, penalties, and forfeits.

In the administration of the customs laws, little discretionary power is entrusted to officers. For this reason the customs system is often severely criticised when compared with foreign practice. On the other hand there is greater opportunity in the United States for remedy of errors or unjust exactions. In many of the European countries decisions of customs officers are final not only as to valuation but also as to classification.

Difficulties of Appraisal.—The most difficult duty involved in tariff administration is to secure a correct appraisal. For nearly thirty years the invoice certified by the oath of the importer was accepted without further question, unless there was obvious intent to defraud the revenue. The increased duties laid under the tariff of 1816 led to undervaluation, and in 1818 there was given to the Secretary of the Treasury power to order an appraisal for the port of New York. New rules were also put in force in regard to the declaration of value and the collector was required to examine a certain number of packages in every invoice. Serious abuses crept in through the practice of consigning goods from abroad to American agents. In such cases there was no foreign bill of sale to determine the value of the goods imported. Oaths were consequently required that the invoice represented the market value of the goods in the place where procured (Act of March 1, 1823).

In 1830 appraisalment was extended to Boston and Philadelphia and a new rule of classification was adopted whereby, for goods in which

either cotton or wool was a component part, the value of the most expensive article in a given package should be taken as the average value of the whole. In 1842 this principle was still further extended under what is known as the similitude section of the tariff act of that year. This was to the effect that on a known enumerated article (that is, an article for which a duty was not specifically levied) which bears a similitude either in material, quality, texture, or use to any enumerated article, the duty of the latter shall apply; if it resembles two or more materials, the highest rate at which any of the component parts pays may be chargeable. This opened the way to uncertainty in entries, disputes, and innumerable decisions, many of which are contradictory, and has prolonged litigation.

Payment of Duties.—Duties are paid to the collector and by him transferred to the Treasury Department. When imported goods on which duties have been paid are exported a refund of duties termed a drawback (*see*) may in certain cases be allowed.

Thus step by step legislation was made more stringent in order to make operative the increasing rates of successive tariffs. In 1842 credit in payments of duties was abolished, cash payments being demanded. In 1846 greater liberality was shown in providing for the establishment of a warehouse system whereby the payment of duties should be deferred while the merchandise was in bond.

Administrative Difficulties.—The higher tariff duties of the Civil War led to still more stringent regulations to prevent undervaluation. New checks were introduced. The consular verification originally adopted in 1818 was now extended to invoices made in triplicate. One of the invoices was to be retained in the consular office, one transmitted to the collector of the port where the entry was to be made, and the third given to the person making the entry. It was also provided that commission charges of the agents in the United States should be taken into account in calculating the values of goods. In 1870 authority was given for the appointment of special agents whose function is to ferret out, either in this country or abroad, intended frauds upon the revenue.

Notwithstanding these repeated efforts to prevent fraud and undervaluation, the evil continued. In 1885 Secretary Manning undertook an exhaustive investigation of the methods of appraisement, drawbacks, and undervaluation, the results of which were published by the Treasury Department in the *Finance Report* of 1885. Attention in particular was called to frauds in the agency system or practice of consignment, an abuse which the law had endeavored to check in the earlier part of the century. More serious even than fraud was the confusion caused by intricate rules in regard to classification of goods.

Recent System.—No action, however, was taken until 1890 when the so-called McKinley Customs Administrative Act was passed including most of Manning's suggestions. Additional penalties were provided for undervaluation, and in order to secure uniformity of appraisal at different ports the number of general appraisers was increased, and these officers were organized into courts to settle questions of appeal. Since 1890 there have been few additional changes. The most significant, before the Underwood Tariff Act of 1913, was the act of July 24, 1897, which modified the principle of penalty for undervaluation; and in 1909 the establishment of the Court of Customs Appeals (*see* CUSTOMS APPEALS, COURT OF). In order to protect the Treasury still further the act of 1909 provided for an additional assistant attorney general with deputies who should have charge before the courts of the interests of the Government in all matters of reappraisement and classification, thus creating a special division in the Department of Justice for the effective settlement of tariff litigation.

In 1913 an unsuccessful effort was made to incorporate in the Underwood Tariff Act (*see*) a provision intended to facilitate the detection of undervaluation and fraud by empowering the Secretary of the Treasury to exclude from entry the merchandise of foreign exporters or manufacturers refusing to submit their books to the examination of duly accredited investigating officers of the United States. The Secretary of the Treasury was empowered, however, to assess an additional duty of 15 per cent ad valorem on such merchandise when the laws of the country of exportation do not provide for the administration of oaths to invoices and for punishment for false swearing; he was empowered further to assess similar additional duty on the imports of importers refusing to submit their books to the examination of customs officials. The Underwood Act retained in general the administrative features of its immediate predecessors but made the penalties for attempted evasion more severe.

See APPRAISAL OF IMPORTED GOODS FOR DUTIES; APPRAISERS, BOARDS OF GENERAL; APPRAISERS OF DUTIES; COLLECTOR OF CUSTOMS; DUTIES, AD VALOREM; DUTIES, DRAWBACKS ON; DUTIES, FOREIGN VALUATION FOR; DUTIES, SPECIFIC; DUTY ON IMPORTS, AVERAGE RATES OF; FORFEITURES AS A SOURCE OF REVENUE; INFANT INDUSTRY; NAVAL OFFICER IN CUSTOMS SERVICE; RECIPROCITY; REVENUE CUTTER SERVICE; SMUGGLING; SUGAR FRAUDS; SURVEYOR OF CUSTOMS; TARIFF BOARD OF 1910; TARIFF FOR REVENUE ONLY; TARIFF LEGISLATION, FRAMING OF; TARIFF, MAXIMUM AND MINIMUM; TARIFF POLICY OF THE UNITED STATES; TARIFF RATES; TARIFF REFORM; TARIFF STATISTICS; TAXATION OF RAW MATERIALS; UNDERWOOD TARIFF ACT; UNDERVALUATIONS.

References: J. D. Goss, *Hist. of Tariff Administration in the U. S.* (1891); D. R. Dewey,

Financial Hist. of the U. S. (1903), 489-492, 189-191, references, 477; A. S. Bolles, *Financial Hist. of the U. S.* (1886), III, 489-522; U. S. Secretary of the Treasury, paragraphs on "Customs Service" in *Annual Reports*.

DAVIS R. DEWEY.

TARIFF AS A LOCAL ISSUE. In 1880, General Hancock, Democratic candidate for President, in a published interview remarked that "the tariff is a local affair." This statement was received with derision by the Republicans, who upheld protection as a national system; and it proved a heavy handicap to the Democrats in the subsequent campaign. So vulnerable was this characterization that Republican orators kept it alive for many years as evidence of the unpatriotic conviction of their opponents. The word "affair" in popular use was changed to "issue." See **TARIFF POLICY OF THE UNITED STATES.** Reference: E. Stanwood, *Am. Tariff Controversies* (1903), II, 200.

D. R. D.

TARIFF BOARD OF 1910. By the tariff act of August 5, 1909, authority was given to the President to employ persons to assist him in securing information in order to carry out the provisions of the maximum and minimum clause of the tariff. Primarily for this purpose a board of three persons (later increased to five) was appointed; but under instructions from the President the board undertook a broader investigation, and in 1910 a more generous appropriation was granted, whereby the board could investigate the cost of manufactures and rates of wages in foreign countries.

There was much opposition to the establishment of the board on the ground that the framing of tariff measures belonged exclusively to the legislative branch of government; and that, if established, it should report directly to Congress instead of to the executive. President Taft, however, insisted upon the experiment, and was supported by public sentiment which had been exasperated by the outcome of the Payne-Aldrich tariff (*see*) legislation. Congress consequently gave a grudging assent.

In 1911 the board made exhaustive reports on the pulp and news print paper and the wool and woolen industries, and in 1912 on the cotton industry. Pending the submission of reports, President Taft refused to sign any tariff measures passed by Congress. As the preparation of reports requires careful investigation carried on by many experts in different parts of the world, and as in the reports submitted the board declined to frame recommendations in regard to future legislation, there was much impatience with its service, and it was abolished on June 30, 1912, by the refusal of Congress to appropriate funds for its maintenance.

See **COMMISSIONS IN AMERICAN GOVERNMENT**; **LABOR, PROTECTION TO**; **PAUPER LABOR**; **PAYNE-ALDRICH TARIFF**; **TARIFF COMMISSIONS**; **TARIFF LEGISLATION, FRAMING OF.**

References: H. C. Emery, "Tariff Board and its Work" in *Sen. Docs.*, 61 Cong., 3 Sess., No. 700; F. W. Taussig, "Tariff and the Tariff Commission" in *Atlantic Monthly*, CVI, Dec. 1910; *Am. Year Book*, 1910, 1911, 1912.

DAVIS R. DEWEY.

TARIFF COMMISSIONS. **Commission of 1865.**—In 1865, Congress authorized the appointment of a revenue commission to seek out new methods of obtaining revenue. As the emergency of war soon terminated, the commission, composed of David A. Wells, Stephen Colwell, and S. S. Hayes, applied itself to advising in regard to changes in the tariff and internal revenue laws already in operation. In 1866, Mr. Wells, under authority of another act, was made Special Commissioner of the Revenue, with power "to inquire into all the sources of national revenue," and to report bills to Congress, the office expiring in 1870. The special problem before him was the adjustment of tariff and internal revenue duties so that the domestic producer should be put on a parity with the importer. Wells executed his commission with conscientious faithfulness and industry, and collected a large amount of valuable data which were presented in successive annual reports. Beginning as a protectionist, he became convinced of the need of radical tariff reform in the direction of free trade. Meanwhile the protectionists were organizing for permanent high tariffs; the Republican party committed itself to this movement, and Mr. Wells was soon out of sympathy with controlling opinion. His constructive influence upon legislation was therefore nugatory. Undoubtedly this ineffective ending brought commission expert service into disrepute.

Commission of 1883.—By 1880 the need of a further reduction of revenue became apparent. Successive surpluses enriched the Treasury, which could not advantageously be applied to the redemption of the debt. In 1881, Secretary Folger, endorsed by President Arthur, suggested the appointment of a commission made up of expert representatives of manufactures, agriculture, and commerce, which could sit as a board "without hampering formalities," to frame a tariff law. A commission was authorized, composed of nine persons, with instructions to revise the tariff "upon a scale of justice to all interests." Among the membership was a representative of the wool manufacturers, an iron manufacturer, a wool grower, a sugar grower, a census office statistician, and an officer of the customs service.

Six months were given for the preparation of the report. The commission prosecuted its work energetically; hearings were held in

twenty-nine different places. An opportunity was freely given to anyone who wished to appear as witness. The commission recommended a reduction of duties amounting on an average to over 20 per cent, but did not attempt to frame a bill with precise details as to rates, leaving this to Congress. That body paid little heed to its recommendations. The Senate and the House each proceeded to prepare a bill, and soon Congress plunged into a controversy in which each industry and section endeavored to secure the maximum amount of benefit, irrespective of the merits of a well-considered general policy.

General Principles.—This failure was conclusive for many years in defeating any proposal to delegate to any board or commission outside of congressional representation the duty of framing a tariff measure. Such suggestions have also been opposed on the ground that a permanent body would perpetually keep tariff questions stirred up; that a non-partisan board would be ineffective, as protectionists and free-traders are too far apart on fundamental principles to agree even on facts; and that Congress already has sufficient power to secure necessary expert assistance for purposes of investigation and collection of data. On the other hand it is urged that international trade relationships have become complicated; that manufacturing processes are rapidly changing; and that consumers have little opportunity in the stress of the preparation of a tariff bill by Congress of presenting their claims. Hence equitable and intelligent action can be obtained only through a commission which is in continuous session. By such a

policy it would be possible to change the tariff piecemeal, thus affecting a few interests at a time, instead of subjecting all industry to the turmoil of general tariff revision every few years when there was a change in party control.

See TARIFF BOARD OF 1910; TARIFF LEGISLATION, FRAMING OF; TARIFF POLICY OF THE UNITED STATES.

References: E. Stanwood, *Am. Tariff Controversies* (1903), II, 158-166, 202-207; Tariff Commission, *Report* (1882); W. McKinley, *Speeches and Addresses* (1893), 70-123; J. Sherman, *Recollections* (1895), II, 841-855.

DAVIS R. DEWEY.

TARIFF FOR REVENUE ONLY. By this phrase is meant the imposition of duties which have for their primary aim the raising of revenue. As popularly used, however, the adoption of such a principle does not necessarily condemn protection, for in laying revenue duties, discrimination, it is asserted, may be made whereby certain industries will receive protective aid. President Polk and Secretary Walker, in 1846, gave the term prominence; and of all the tariffs, that of 1846 comes the nearest to being one for "revenue only." The phrase is often used in a still looser sense, as representing undefined opposition to the protective system as developed in more recent years. For example, in 1876 the Democratic platform demanded that "custom-house taxation be only for revenue." It was not, however, intended that the phrase should be taken literally. See TARIFF POLICY OF THE UNITED STATES; TARIFF REFORM.

D. R. D.

TARIFF LEGISLATION, FRAMING OF

Parliamentary Theory.—The theory of legislation in America is that a bill shall be offered by an individual member, referred to a committee to be perfected, reported to the main body for discussion, submitted to a formal vote, subject to yea and nay record if a sufficient number of members so desire. In practice not one of these steps is considered essential, and many bills are enacted into ordinances and laws which observe almost none of them. Measures are frequently prepared by persons not members of the legislative body; thousands of propositions are every year pigeon-holed by committees; hundreds of statutes have never been voted upon at all, being carried by unanimous consent; and on many important measures no yea and nay vote is secured.

No form of legislation is more subject to extra-parliamentary influences than the tariff bills of the Congress of the United States. So far from springing from individual initiative, every single general tariff from 1789 to 1913

has gone through a preparation outside of Congress; and since 1877 every tariff has been decided upon in the last resort by a small minority in both Houses, acting as a party committee and securing the assent of party colleagues, so as to make a majority. The principal features in this method of preparing legislation may be analyzed as follows:

Bills Prepared by the Secretary of the Treasury.—In other countries, similar financial measures are usually brought in by the finance minister or Prime Minister. In the United States this practice has been infrequent and there has been no case in late years. Alexander Hamilton did not take office until after the first tariff was framed, but he did prepare, and Congress accepted, several minor acts for slightly increasing tariff duties. The doubling of the duties in the War of 1812 was an administration measure. The tariff of 1816 was in most features acceptable to, if not actually drawn by, Secretary Dallas. In 1846, Secre-

tary Walker, in conference with some officers of the customs, drafted a tariff bill which was substantially enacted under the name of the Walker tariff. Some changes, chiefly administrative, were made under the influence of Secretary Chase during the Civil War. Secretary Manning, in Cleveland's first administration, carefully prepared an administration tariff bill, partly a codification of preëxisting law, and partly a measure of administrative reform. This was taken up in Harrison's administration and made a separate statute alongside the McKinley Tariff Act of 1890; while adopting a different principle for the ascertainment of values from that proposed by Manning, the statute retained many reform features. The McKinley Tariff Act of the same years was prepared by the committee on ways and means with very little heed to the advice of the Secretary of the Treasury. Since that time, the Secretary of the Treasury has sometimes been called upon to prepare statements of the results of tariffs then in force, but never has been recognized as a legislative party to the framing of a tariff bill.

Bills Prepared by Committees.—In the early Congresses, bills were framed by special committees formed for that sole purpose; but in 1794 was appointed a ways and means committee of the House, which proved to be the body most interested in the methods of raising funds for the public service. Hence, the tariff eventually came under its jurisdiction. For many years the committee from time to time brought forward measures which were duly debated in the House, and which underwent considerable changes through amendments proposed and voted on the floor. A striking example is the Tariff of Abominations of 1828, which was amended out of shape and passed in a form unwelcome to its friends.

In the twenties and thirties there was an occasional fight on the floor over the question to which committee proposed tariff bills should be sent. The committee on commerce and the committee on manufactures sometimes claimed them. Since 1861, however, such measures have invariably sprung from the House committee on ways and means. Since 1890 each tariff law has been named from the chairman of the committee on ways and means which framed it; thus, the McKinley tariff of 1890, the Wilson tariff of 1894, the Dingley tariff of 1897, the Payne tariff of 1909, and the Underwood tariff of 1913.

For many years the bill thus prepared by the committee on ways and means has lacked the participation of the minority members of that committee. The method followed is for the majority members to hold sessions and prepare a bill which for form's sake, is finally laid before the whole committee and there voted upon. But the minority members, so far from sharing in framing the bill, include the

strongest and most determined opponents of tariff which their committee reports.

Hearings by committees before report is made are not required by any statute or by unvarying practice. Since 1882, the committee in charge has usually held some open sessions and listened to suggestions and arguments in which individuals and corporations which desire or disapprove particular parts of the bill have an opportunity to present their views. There is a general belief that public arguments coming from the party or the side which is unfavorable to the pending bill have little chance to affect the opinions of the committee. The hearings are commonly looked upon as simply a method of disarming any later criticism to the effect that no opportunity was given to point out mistakes in the bill. In practice, the bill is not prepared even by the majority of the ways and means committee. The chairman, in conference with other leaders of his party in the House, in the Senate, and outside of Congress, sometimes including the President of the United States, decides what shall be the general type of the bill; and it is in practice launched by a party steering committee. The Underwood Tariff of 1913 was by exception several times discussed by a Democratic party caucus, which settled contested details.

Discussion in the House of Representatives.—Once the bill is duly reported to the House, debate follows, which lasts for weeks or months. Members of the majority party take the opportunity to show their zeal for the party measure; members of the minority attack the bill in principle and in detail. In some tariff discussions those in charge of the bill have allowed to the minority and to their own friends no fair chance for a vote on amendments unwelcome to them. In the debates of 1913, free opportunity was given for amendments, all of which, however, were invariably voted down unless accepted by those in charge of the bill. Tariff debates are often lively and lead to direct personal discussion in short and pointed speeches. In order to reach any result, debate must close in the teeth of opposition; but there is little complaint of lack of an opportunity to talk against the bill.

The Tariff in the Senate.—Since 1880, the Senate has been a powerful factor in the adjustment of all tariff questions. Notwithstanding the constitutional provision that all bills for revenue must originate in the House of Representatives, the Senate has full power to amend any measure that comes before it and liberally exercises this power upon tariff bills; so much so, that the tariff of 1894 has been commonly known as the Wilson-Gorman tariff, because of the great influence of Senator Gorman upon its text; and the tariff of 1909 is known as the Payne-Aldrich tariff. The Senate has once or twice framed tariff bills on its own account but the House has always ignored

them. Nevertheless, the Senate reached the same end by so amending the bills in committees and in later discussions that it practically framed new measures. This was especially notable in the case of the tariffs of 1883 and of 1894; in the latter case the bill which issued from Congress was so unsatisfactory to President Cleveland that he refused to sign it, and it became a law by ten-days rule.

The Senate committee, like that of the House, sometimes has open hearings, but this legislative branch is smaller and is easier to manage through a small steering committee. In general, the Senate has for many years been more favorable to a high scale of duties than the House, and its amendments are usually in an upward direction. In 1913, however, the Senate committee, followed by the party majority in the Senate, reduced many rates as they stood in the House bill.

Committees of Conference.—Tariffs are more hotly debated than almost any other kind of bill, because, since 1883, the tariff has been a burning party issue, and because so many manufacturing interests have a voice through members of the House and Senate. Hence there is extreme difficulty, first in framing any bill acceptable to the majority of the committee on ways and means; then in getting for the complicated measure the necessary party majority in the House; and finally in establishing an agreement between the two houses. This necessary adjustment in the last resort has been commonly made by a conference committee, which, in practice, is disposed to accept rather the Senate than the House point of view, and frequently inserts provisions which have received the assent of neither house. This is a clumsy method of securing agreement, which, under other forms of government, is secured by a responsible ministry which makes the bill a party issue. No adequate debate can be had on a conference report and it offers ample opportunity to slip in "jokers."

Influences out of Doors.—In 1789 merchants of Baltimore petitioned Congress to pass a protective tariff, and ever since that time petitions, delegations, and members acting under the pressure of their constituents have brought to bear upon Congress powerful and conflicting influences. From 1828 to 1832 several informal conventions were held for and against the protective system. Since the Civil War organizations of manufacturers or producers of raw products have arisen which keep up agencies and often lobbies in Congress to stimulate public opinion in favor of their interests. In 1890 and at various times thereafter, representatives of protected industries, such as the silk and woolen, have been invited to draft sections of a tariff bill which would be acceptable to them. This in part accounts for the complications of some of the tariff schedules, which make it impossible for anyone but an expert to understand the precise protective ef-

fect of the tariff. Under such provisions duties have sometimes amounted to a hundred per cent of the value of foreign goods. The fact that many protected concerns have been in the habit of contributing to campaign funds has concentrated political attention upon their influence over the framing of tariffs. In 1913 the revelation of the methods of lobbying in the interest of manufacturers helped to break down opposition to the Underwood bill.

Commissions.—In 1882 an effort was made to avoid the wrangles of the tariff by appointing a supposedly non-partisan committee which should hold public hearings and discuss details and then report to Congress. This plan worked admirably, except that Congress practically overrode the commission's report, and in the end the tariff of 1883 established a higher scale of duty than the previous tariff and than that provided for in the commission's report. In 1909 President Taft secured a statute for a Tariff Board which was to prepare statistics showing the actual cost of goods to foreign manufacturers. This board made several reports. Congress, however, was hostile to it from the beginning, and eventually cut off the appropriation, though both the Republican and Progressive parties, in their platforms of 1912, advocated tariff boards.

The President.—Under the strict theory of separation of powers (*see*), the President has no part in tariff legislation until it has been laid before him; and there is no ease of the veto of a general tariff bill during the whole century of tariff history. In practice, Presidents, partly as party leaders, and partly from a desire to act for the whole people, have frequently shared in tariff discussions. Jackson was a factor in framing the tariff of 1833; and his good will was essential to its passage. Polk was interested in the tariff of 1846. The tariff of 1894 was the result of a direct issue raised by President Cleveland in his annual message of 1887, and he took an active part in trying to secure a different tariff from that finally passed under the name of the Wilson-Gorman tariff. The Dingley tariff of 1897 had the good will of President McKinley, who had been the responsible framer of the tariff of 1890. The tariff of 1909 was for a time held up by objections of President Taft, who apparently doubted whether it squared with the party promises in the platform of 1908. He signed the bill, however, and became its warm advocate in public addresses. In 1913, President Wilson took a more prominent part in the tariff than any President in the previous history of the country, holding political conferences with party leaders, calling a special session of Congress for the express purpose of enacting the tariff, using his personal influence in the direction of particular clauses of the bill, and pressing the responsible framers to accept his views on the admission of raw materials.

See EXECUTIVE AND CONGRESS; FREE TRADE AND PROTECTION; TARIFF COMMISSIONS; tariff acts by name: and under TARIFF.

References: J. L. Bishop, *Hist. of Manufactures* (1861-4); J. D. Goss, *Hist. of Tariff Administration* (1890); F. W. Taussig, *Tariff Hist. of the U. S.* (rev. ed., 1910); Edward Stanwood, *American Tariff Controversies* (1904); *Congressional Globe and Congressional Record* for the sessions of tariff debates; A. B. Hart, Ed., *The American Nation* (1906-8), chapters on the various tariffs; D. R. Dewey, *Financial Hist. of the U. S.* (1902), *passim*. ALBERT BUSHNELL HART.

TARIFF, MAXIMUM AND MINIMUM. The Payne-Aldrich tariff act (*see*) of August 23, 1909, provided that after March 31 of the following year there should be added to the duties specified in the act, constituting the minimum tariff, further duties amounting to 25 per cent of the value of goods imported, when such goods were imported from a country which imposed any undue discrimination against the exports of the United States. Such provisions are in use in European tariffs and are designed to place nations on a common footing in their commercial relationships.

A somewhat similar provision, though limited in its application, was incorporated in the tariff act of 1890, when power was given to the President to levy by proclamation certain duties upon imports from certain countries if it appeared that unreasonable duties were levied upon certain productions of the United States (*see* McKINLEY TARIFF ACT). Undue discrimination, under the act of 1909, may be either in the way of tariff rates or by export bounty or export duty or prohibition upon exports. Decision as to the existence and discrimination lies with the President, and the power thus granted is continuous.

This plan of maximum duties was strongly opposed when under consideration. There was fear of tariff wars and, if necessity caused its enforcement, of creating complications in schedules regularly established in the act for certain definite ends. For example, if dispute should arise with Australia and cheap wool be barred from this country by the maximum

rate, the wool might be diverted to the mills of other countries and when manufactured compete successfully with American cloth. So too there was fear that preference given by Canada to British imports might be construed as a discrimination against the United States. Fortunately these fears proved groundless. Negotiations were immediately entered into, particularly with Canada and Germany, and by March 31, 1910, all obstacles were removed. The maximum and minimum provisions of the act of 1909 were abolished in the Underwood act of 1913.

The term "maximum and minimum tariff" is to be distinguished carefully from minimum duties which involves the arbitrary valuation of goods to which rates are applied.

See DUTIES ON IMPORTS, AVERAGE RATE OF; PAYNE-ALDRICH TARIFF; RECIPROCITY; TARIFF POLICY OF THE U. S. DAVIS R. DEWEY.

TARIFF, MINIMUM. A term applied to the lower of two scales of duties, one or the other of which is to be applied to foreign countries according as they are considered to be fair or unfair to American exportations. See TARIFF, MAXIMUM AND MINIMUM. D. R. D.

TARIFF OF ABOMINATIONS. This term was applied to the tariff of 1828. The protectionist party at that time was divided between the followers of John Quincy Adams, for the most part from New England, who wished high duties on the manufactures of that section, but low duties on raw materials; and partisans of Jackson from middle and western states, who labored for duties on pig iron, hemp, flax and wool. The low tariff men were in minority, but supported the bill with high rates especially on raw materials in the expectation that it would be made so obnoxious that the New England representatives would refuse to support it in its final form. The plan miscarried, and the bill, with all its objectionable features, passed. See TARIFF LEGISLATION, FRAMING OF; TARIFF RATES. References: F. W. Taussig, *Tariff Hist. of the U. S.* (5th ed., 1910), 84-103; E. Stanwood, *Am. Tariff Controversies* (1903), I, 269-288; D. R. Dewey, *Financial Hist. of the U. S.* (1903), 176-181. D. R. D.

TARIFF POLICY OF THE UNITED STATES

Revolutionary.—At the time of the American Revolution, the prevailing opinion of political leaders was in favor of freedom in trade relations. This was natural, for the revolt was partly caused by exasperation over the commercial restrictions of England. After independence was achieved, discriminating legislation on the part of Great Britain took

the place of direct regulation, and the ineffectiveness of the government of the new republic soon dissipated the cherished expectations of Americans that the United States would share in the commerce of the world. Six of the seven northern states in the Union adopted tariffs for the purpose of protecting their local industries.

Arguments of 1791.—By the Constitution, drawn up in 1787, the exclusive power to impose customs duties was granted to Congress (Art. I, Sec. viii, ¶ 1). For the first quarter century, the tariff was framed primarily to yield revenue. The nation was chiefly engaged in agriculture and commerce. The southern planter and the New England ship-owner met on common ground: the one wished to buy his finished product as cheaply as possible; the other found his profit in expanding commerce. Manufacturing houses were beginning to be established, and there were producers of raw materials, like hemp and iron, who desired protective duties. Though agriculture was regarded by no inconsiderable number as the most important and profitable industry, to be nurtured even at the expense of manufactures and commerce, this view rapidly disappeared early in the nineteenth century. The desirability of protection was recognized in the preamble of the first tariff act in 1789. Although the duties then adopted as measured by subsequent rates were low, and the duration of the tariff was limited to seven years, the arguments presented in support of the duties show that there was a general determination to aid American industry by legislation, if necessary.

Arguments in favor of protection were formulated more precisely by Hamilton in his *Report on Manufactures* in 1791. The document was justly regarded as the Magna Charta of protectionism. Some of the factors which influenced his reasoning no longer exist, and conditions have since arisen which were then unknown; but notwithstanding these changes Hamilton's brief still remains a source of inspiration to the protectionist school. Hamilton's argument applies more specifically to the development of the manufacturing industry by protection, of which the advantages are summarized as follows: (1) extension of division of labor; (2) extension of the use of machinery; (3) additional employment for classes in the community not ordinarily engaged in manufacturing; (4) promotion of emigration from foreign countries; (5) diversification of enterprise; (6) a home market for the products of agriculture.

Protective Spirit of 1816.—For twenty-five years there was little further serious discussion of a tariff policy. Between 1794 and 1816, twenty-four acts were passed affecting tariff duties, but the changes as a rule were in the interest of revenue, or in continuing previous acts of temporary duration. In 1812 duties were doubled so as to provide additional revenue for the war with Great Britain, to continue for one year after the establishment of peace. In 1815 the need of recasting the revenue system was evident, the internal revenue duties which had been imposed as an emergency war measure were regarded as only temporary, and there was a heavy debt to be

cared for. Even if these reasons had not existed, it is probable that the urgent demands of manufacturers would have forced upon Congress the revision of the tariff in the interest of protection. Since the establishment of a vigorous and stable national form of government, the manufacturing industry had thrived with almost uninterrupted success. Non-intercourse with England, and the lessening of imports during the war, gave an added impetus. When peace was established in February, 1815, there was an outpouring of foreign goods into the American markets, and by 1816 the imports were almost double that of any year before the war. England was denounced on the ground that, unsuccessful in war, she was endeavoring by organized effort to ruin American industry. Manufacturers promptly presented their grievances, and Congress was almost unanimous in its opinion that there was need of further protection. The only differences were over the extent to which the principle was to be carried. Even Jefferson frankly acknowledged the necessity for vigorous action, and Calhoun, who later led the assaults upon protectionism, favored the "fostering care of government" to manufacturers. The extremists were not successful in securing as high rates as they desired. The mercantile and shipping interest of New England was still powerful; and while the members from that section were protectionists at heart, they would not consent to sacrifice commerce in behalf of manufactures. Special consideration was given to cotton manufacture, and for this purpose the minimum principle was devised.

Protectionism from 1816-1824.—Recovery after the war was slow; the banking system was disordered; a flood of foreign goods overstocked the market, and in the imports of commodities there was gross undervaluation. In 1818 the temporary higher duties on cottons and woollens were continued, and the rates on iron products were raised. In the latter part of that year, extending into 1819, there was a severe industrial and financial crisis, and general distress again brought the tariff before Congress. Then began an almost endless series of pamphlets and memorials which characterized tariff discussion during the next twenty years. There was no longer that general agreement of opinion witnessed in 1816: protectionism was now openly assailed, especially by representatives from the South; agriculture was once more extolled as superior to manufactures. In the House of Representatives New England gave a majority of but one vote for the bill of 1820, which provided for a further increase of duties; while the representatives from the South, by a vote of 63 to 8, were overwhelmingly against the bill.

Though temporarily checked, protectionists kept up the contest, and, countenanced by

recommendations of President Monroe, a new tariff bill was passed in 1824. Protection was now advocated as a system of political philosophy, apart from particular schedules. Clay, foremost among the protectionists, based his arguments upon the broad foundations of an American system (*see*). Especially did he emphasize the superior advantage of a home to a foreign market; only through this could the surplus products of agriculture be absorbed. In opposition objections were forcibly made that Congress had no constitutional right to impose duties for the encouragement of particular industries aside from purposes of revenue.

As in 1820, sectional interest controlled the vote; in the South there was but one vote in favor. Higher rates were placed upon iron, hemp, glass, lead, and wool. The middle and western states were especially interested in these products, and united were able to overcome the commercial interests of New England and the planting interest of the South.

Protectionism in the Ascendant, 1824-1828.—The protectionists, however, were not satisfied; especially the wool manufacturers complained. The placing of a duty on the raw material, wool, an agricultural product, introduced a complication which has continued to perplex tariff-making until the present time. The tariff more than ever before became a political issue. New England now applied herself to manufacturing with greater energy and with remarkable success. There was consequently a rapid shifting of opinion in that section, favorable to increased protection. Webster, who opposed the tariff of 1824, was called upon by his constituents to present to the House of Representatives resolutions passed by the legislature of Massachusetts in favor of increased duties on woollens.

The contest was especially keen in the three-cornered fight between Adams, Jackson and Clay for the presidency in 1828. As the several political groups devoted to the fortunes of the political leaders named were more concerned with intrigue than with perfecting the details of a harmonious tariff bill, the protectionists were enabled, by playing one party over against the other, to raise duties to the highest level which was reached before the Civil War. The woolen industry received special consideration, and as a possible solution of the conflicting claims of the manufacturers and the producers of raw wool, compound duties (*see*) were introduced. Under this principle the finished product was given an *ad valorem* duty for protection against foreign cloths plus a specific duty to compensate for the rate on wool (*see* TARIFF OF AROMINATIONS).

The doctrine of protection, however, had been carried to such a point that the manufacturers were disappointed in not securing \$1.00 a yard as the lowest limit of valuation.

The southern members in the House, with the exception of three, voted against the measure; and from that section there arose after the passage of the bill the most bitter opposition, which in South Carolina gave impetus to the nullification movement. The South desired the widest possible market for its cotton, rice, and tobacco; it had few manufactures, and consequently was a large purchaser from northern states or abroad. Influenced by these considerations, their leaders put forth the argument that a tax on imports was a tax on exports, that the tax on cloths imported was a tax on cotton exported. In the opinion of even many northerners the principle of protection had been pushed too far.

Reaction of 1832-1833.—Apart from objections to particular rates it was found expedient to allay the political discontent in the South, and in 1832 the tariff was revised in accordance with recommendations made by John Quincy Adams, then a member of the House. An ardent protectionist, he endeavored, as Taussig states it, "to clear the tariff of the excrescences which had grown on it in 1828, and to put it into a form in which the protectionists could advocate its permanent retention." Although this measure received in the House the support of Virginia and North Carolina, it was not acceptable to South Carolina and Georgia. The nullification movement grew apace, and in November, 1832, the legislature of South Carolina passed a nullification (*see*) ordinance to the effect that the tariff law was null and void and not binding upon the citizens of that state.

Again conciliation was attempted. Clay now came forward with a proposition for a gradual reduction of duties, extending over eight years. In return the protectionists secured the principle of home valuation of commodities as well as the abolition of credit in payment of duties after 1842. This measure, known as the "Compromise Tariff," while it relieved the tension in South Carolina, was not regarded by protectionists as a satisfactory recognition of their doctrine. There was, however, little disposition to disturb a settlement which might be interpreted as a pledge; and public attention was soon diverted to problems relating to the Bank, the surplus, and the safe-keeping of public funds.

Revenue Tariffs, 1842-1846.—Industrial depression and loss of revenue which followed the panic of 1837 awakened a demand for another revision of the tariff. The Whigs were successful in the elections of 1840 and promptly proceeded to make a revision in the interest of protection. Duties were restored in 1842 on an average to the level of the tariff of 1832. The triumph of protectionism was short-lived, for the Democrats again gained control in 1845. Although Polk, the successful candidate for President, had made no clear utterance as to his own convictions, he

chose for Secretary of the Treasury Robert J. Walker of Mississippi, who had clear-cut opinions as to revenue policy.

Walker did not wait for Congress to enter upon a revision. In his first report he laid before Congress recommendations that no duty be imposed above the lowest rate which would yield the largest amount of revenue; that below such rate discriminations might be made descending in the scale of duties; that the maximum duty be imposed on luxuries; and that all minimums and specific duties be abolished. Congress accepted his leadership, except in refusing to impose duties on coffee and tea, taxes which had been dropped in 1832. Walker's influence was so complete that the measure of 1846 is generally known as the Walker Tariff. It is the nearest approach to a free-trade measure framed since the formulation of the protectionists' philosophy. Wool, a raw material to be sure, was taxed, and the luxuries, tea and coffee, were left untaxed but these are but minor deviations from the orderly principles upon which the bill was drawn.

How could there be so quick a shifting of opinion from protectionism to free-trade principles? The answer is partly political and partly economic. The Whigs were discredited by Tyler's administration, and the Democracy which came into control was more closely allied to the South and more sympathetic with its point of view than was the Democracy of Jackson's time. The protectionists, by developing their arguments into a complete and well-rounded system of political philosophy, and by denying the efficacy of a half-way or temporizing policy, had practically driven their opponents not only to deny the value of protection but to advocate aggressively the virtue of freedom in commerce. The condition of the treasury was also favorable for introducing a new tariff policy, for the country was finally extricating itself from the embarrassments of 1837.

Period of Lower Tariffs, 1846-1861.—The so-called free trade experiment was successful, whether due to any inherent virtue in the tariff itself or to more general causes attending the remarkable development of the country, it is difficult to say. The new transportation agency of railways, the settlement of the Mississippi Valley, and the gold discoveries in California, all contributed to economic growth and prosperity. The revenue from customs and the sale of public lands was in excess of ordinary expenditures, so that by 1857 it was deemed wise to make further reductions. The rates of 1846 were scaled down, and the free list enlarged. The enactment of this legislation hardly caused a ripple; the public had apparently lost all interest in the tariff. In Congress questions relating to slavery and the admission of new states were the absorbing topics of debate.

Civil War Tariff, 1861-1865.—Soon after the passage of the tariff of 1857 a panic occurred. Treasury deficits followed and additional revenue was deemed imperative. The newly organized Republican party, which inherited the protective philosophy of the old Whig party, gained control of the House of Representatives. A tariff measure, only moderately protective in character was introduced by Morrill of Vermont and passed by the House in 1860. Owing to Democratic superiority in the Senate, action was delayed, and not until March, 1861, was the bill, passed (*see MORRILL TARIFF*).

Protection finally won a lasting victory as a result of the financial straits of the Government during the Civil War. At first reliance was placed upon loans, internal revenue duties, and forced issues of treasury notes. But the imposition of internal revenue duties which fell heavily upon the domestic manufactures, demanded as a measure of equity an accompanying increase in import duties. Tariff rates were consequently pushed to higher and higher levels by the acts of 1862 and 1864. Aside from the need of adjustment, the pressing demand for revenue discouraged careful consideration of fundamental principles. To the bill of 1864 the House devoted but two days' debate, and the Senate but one. Between 1861 and 1864 the free list was greatly restricted. As the historian of the tariff (Stanwood) says, "As for the manufacturers they had only to declare what rate of duty they deemed essential, and that rate was accorded to them."

Protection Retained, 1865-1881.—At the close of the war, it was generally believed that the tariff would be revised, or at least overhauled, to remove the many inconsistencies and absurdities which hasty legislation had grafted upon the schedules; nothing of importance was done. Many Republicans were in sympathy with the revision, but on the other hand there were other pressing problems to be settled. The stupendous national debt counselled caution in reducing customs receipts, paid in gold, for gold was needed to pay the interest on the public debt. By common consent the internal revenue duties, traditionally regarded as war taxes, were to be reduced, if not repealed, as soon as possible. The manufacturers were also powerful, being already entrenched behind protectionist fortifications.

Although Congress followed a drifting policy, the period is of interest in marking several movements which have had a durable influence upon tariff discussion. The agricultural districts in the West began to complain that they were overtaxed for the benefit of eastern manufacturers. The conflict between the wool-grower and the woolen manufacturer was pacified by an open alliance of the national organizations of these industries; and under pressure of this agreement Congress passed

in 1867 the Wool and Woolen Act, the most important tariff change in the years immediately succeeding the war. Moreover there was some recognition of the need of expert investigation as a basis of revenue law-making (*see* TARIFF REFORM; TARIFF COMMISSIONS). In 1870 and 1872 Congress made some concessions to the advocates of lower rates, more particularly to allay discontent in the West. The protective system, however, remained intact, notwithstanding the loss of the House of Representatives to the Democrats in 1875. A Democratic House, opposed by a Republican Senate and President, could not expect to enact a new tariff measure. The Democrats themselves were divided, for their representatives from Pennsylvania were as staunch in defense of protectionism as were the Republicans. Even General Hancock, the Democratic candidate for President in 1880, declared that, notwithstanding the plank in the party platform "in favor of revenue only," there would be as much protection under a Democratic as under a Republican administration, and that "the tariff is a local affair" (*see*).

Standstill, 1881-1887.—Finally, in 1882, there seemed to be promise of more thoroughgoing action. Congress authorized the appointment of a tariff commission (*see*) to investigate actual conditions and make recommendations. The commission recommended an average reduction of duties of over 20 per cent, but Congress played havoc with these recommendations. It refused to revise the tariff upon any consistent principle, confined itself to making a few unimportant changes in rates, and concentrated its legislative action upon further reductions in internal revenue duties. Such an impotent ending brought inquiry by commission into disrepute.

As a matter of fact the country did not desire a change. Industry, agriculture as well as manufacturing, had become so dependent upon government aid by protection, that even the Democrats were afraid to take a bold stand. President Cleveland, elected in 1884, though favoring reductions, declared that there was no occasion for the discussion of the wisdom of the protective system. To revise the tariff without impairing the protective system was, however, no easy task. The efforts of the Democrats, as shown by the Morrison (1884) and the Mills (1888) bills, presented no genuine principle of reform (*see* TARIFF REFORM). These measures were, of course, blocked by Republican majorities in the Senate.

Renewed Controversy, 1888-1909.—In 1888 the Republican party came out uncompromisingly in favor of protection, and made the tariff the supreme issue of the campaign. They won, and in fulfillment of their pledge enacted the McKinley tariff (*see*) in 1890. Protection was no longer the chance product of war and an embarrassed treasury; it was now de-

liberately accepted and incorporated into the revenue policy of the country. Nor was this policy changed in any vital feature by the tariffs of 1894, 1897 and 1909. The first, the Wilson-Gorman tariff (*see*), illustrated the continued lack of any solid convictions on the part of the Democrats. Duties were changed, but the net result was a protective tariff. The Dingley tariff (*see*) of 1897 represented the more unified opinion of the Republicans, and the Payne-Aldrich tariff (*see*) of 1909 simply the need of readjusting rates to meet changed industrial conditions.

In enacting the last measure something more indeed was expected. During the twelve years of the Dingley tariff discontent with the high rates on manufactured goods was manifested, particularly in the agricultural West. Many Republicans believed that the protective tariff gave shelter to the growth of trusts, and finally the rise of prices, which became particularly burdensome after the panic of 1907, led to an expectation that the next tariff would lighten the cost of living and indirectly curb the monopolistic power of the trusts. Revision downward was accepted as the pledge of Republican victory, but the advocates of lower rates failed to reckon with the strength of protected interests. The House bill of 1909 reflected with some degree of accuracy the popular desire, but the Senate, less sensitive to the varying tides of public sentiment, a star chamber in its archaic methods of committee procedure and more easily controlled by its system of representation, reshaped the House bill. There was an angry protest that the public had been betrayed. Such judgments, however, failed to take into account the expanding influence of protection through the establishment of manufactures in the South. No longer was that section exclusively devoted to agriculture. While politically the South remained Democratic, it was nevertheless inclined to be cautious in enacting legislation which might cripple its new enterprises.

Democratic Revision, 1913.—Popular resentment at the failure of the Republican party to carry out its pledge of tariff reform was shown in no uncertain way. In the congressional elections of 1910 the Democrats secured a large majority in the House of Representatives, and proceeded with the aid of the Progressives (*see*) in the Senate to enact a downward revision of the tariff. In a special session of Congress in 1911, called by President Taft to approve a proposed reciprocity (*see*) agreement with Canada, bills were passed placing on the free list a large number of commodities largely used by farmers, and making extensive reductions in the duties on wool and woolsens, manufacture of cotton, iron and steel products, and chemicals. All these bills, however, were vetoed by President Taft on the ground that no attempt should be made to revise the tariff before the Tariff Board (*see*)

created by the Payne-Aldrich Act of 1909 should have an opportunity to report. In 1912 Congress passed new measures dealing with the steel, chemical and wool schedules, and also a bill placing sugar on the free list, but these bills also were vetoed by President Taft on the ground that they failed to take account of the basis for scientific reduction available in the reports of the Tariff Board.

In the presidential election of 1912 the entry of the Progressive party (*see*) into the political field enabled the Democrats to elect their candidate, to secure an overwhelming majority in the House, and to overturn the Republican majority in the Senate. The leading plank of the Democratic platform declared again for a tariff for revenue only, on the ground that a protective tariff is unconstitutional. For the purpose of carrying out this pledge, President Wilson summoned Congress in special session in April, 1913. The result was the Underwood tariff (*see*) which received the President's signature on October 3, 1913. The original bill prepared by the ways and means committee, under the leadership of Oscar W. Underwood, of Alabama and with the supervision of the President, was based on the theory of a competitive tariff, namely, "to introduce in every line of industry a competitive basis providing for a substantial amount of importation, to the end that no concern shall be able to feel that it has a monopoly of the home market given other than through the fact that it is able to furnish better goods at lower prices than others." It proposed additions to the free list and reductions in rates in the tariff schedules estimated to lower the average rate of duty from 40.12 per cent in 1912 under the Payne-Aldrich Act to 29.69 per cent. Certain clauses of the bill were strongly opposed by members of the majority party, especially those adding sugar and raw wool to the free list. The Senate, however, which had hitherto been considered the bulwark of protectionism, reversed in this instance its traditional attitude, approved these clauses, and made further reductions in rates which would have reduced the average rate of duty to 26.67 percent. In conference, however, the Senate receded from many of its amendments, and the measure as finally approved provided for an average rate of duty in the neighborhood of 28 per cent.

See RECIPROCITY; TARIFF LEGISLATION. FRAMING OF; TARIFF, MAXIMUM AND MINIMUM; TARIFF RATES; TARIFF REFORM; TARIFF STATISTICS.

References: F. W. Taussig, *Tariff Hist. of the U. S.* (1910); E. Stanwood, *Am. Tariff Controversies* (1903); D. R. Dewey, *Financial Hist. of the United States* (1903), bibliographies, 75, 142, 172, 223, 248, 298, 383, 414, 435, 463; W. Hill, "First Stages of the Tariff Policy of the U. S." in *Am. Econ. Assoc. Publications* (1893); O. L. Elliott, *Tariff Controversy in the U. S., 1789-1833* (1892); M. E.

Kelley, "Tariff Acts under the Confederation" in *Quart. Journ. of Econ.*, 11 (1886), 473-481; *Am. Year Book*, 1910, and year by year.

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TARIFF, PREFERENTIAL. A preferential tariff is one which provides for lower rates on goods coming from certain specified countries, or countries which will agree to enter into reciprocal arrangements of commerce and trade; for example, there is a system of preferential duties between Great Britain and some of her colonies. See RECIPROCITY; TARIFF, MAXIMUM AND MINIMUM. D. R. D.

TARIFF, PROTECTIVE, CONSTITUTIONALITY OF. The question as to the constitutionality of a protective tariff, though once earnestly debated, has now little more than academic interest in as much as the matter may be considered conclusively settled in the affirmative. It is true that in the Constitution Congress has not been given express authority to legislate for the economic protection of American industries, but it has been given a general taxing power, and an authority to regulate commerce with foreign nations. If it be argued that a protective tariff is not a regulation of commerce, but is, in so far as it is effective, a prohibition thereof, it may be replied that the Supreme Court has held, as to interstate commerce, that the power to regulate includes the power to prohibit (*Champion vs. Ames*, 181 U. S. 321) and that a parity of reasoning makes this doctrine applicable to foreign commerce. If, again, it be urged that a schedule of customs dues levied primarily and solely for the protection of domestic industries is neither a revenue measure nor a regulation of commerce, the answer is, as declared by the court in the case of *McCray vs. United States* (195 U. S. 27) that a law, upon its face a revenue measure, may not have its constitutionality questioned by a judicial inquiry into the motives of its enactors or into its ultimate effect when enforced. In this case an act of Congress levying a tax of ten cents a pound upon oleomargarine, artificially colored to resemble butter, was upheld as a revenue measure, the court declining to consider the argument that the tax was so high as to be surely prohibitive of the manufacture of such oleomargarine, that those who enacted the law must have known this, and that, therefore, they could not have intended the act to be a revenue measure, and must have sought the regulation or prohibition of the manufacture of oleomargarine within the states—a subject over which Congress possesses no constitutional control. See CONSTRUCTION AND INTERPRETATION; FREE TRADE AND PROTECTION; IMPLIED POWERS; RESULTING POWERS. Reference: E. S. Stanwood, *Am. Tariff Controversies in the 19th Century* (1903). W. W. WILLOUGHBY.

TARIFF RATES

Methods.—Duties which are levied upon imports may be either specific (*see*) or ad valorem (*see*). The former are imposed according to a specific unit of quantity, and the latter according to value, or they may be combined, making compound (*see*) or compensating duties. Whatever the technical method, rates are regarded as high or low in the proportion the amount levied bears to the value of the commodity. Unless, therefore, the value of the unit affected by a specific duty is accurately known, the significance of the specific duty is not clearly understood.

Number of Rates.—In the earlier tariffs comparatively few rates were enumerated. Commodities were grouped into large classes, with the same rate applicable to all goods within the given class. In the first tariff of 1789 there were approximately 45 specific rates enumerated, of which 12 applied to different kinds and grades of teas; all other merchandise, except that placed on the free list, was grouped into four classes, on which ad valorem rates of 5, 7½, 10, and 15 per cent respectively were imposed. Gradually as industries, and more particularly manufactures, developed into specialized branches and products, and as the desire to give every product its own measure of protection became more insistent, the number of enumerated rates increased. In the act of April 27, 1816, there were over 100 specific rates named; and in the act of July 14, 1832, there were 24 specific rates applied to the single class of iron and steel and their products. Definitions, specifications and provisos became more and more elaborate. The iron and steel schedule of the act of August 30, 1842, is by itself half as long as the entire act of 1789. In this earlier act there were less than 150 different articles or classes of articles named, while in later acts the numbers run into the thousands. Careful specification was characteristic of low as well as of high tariffs: the index of the tariff of 1846 has over 400 entries. In the Dingley Act of 1897 the total number of dutiable items was 2,024. By schedules they were distributed as follows:

A—Chemicals, oils and paints	232
B—Earths, earthenware and glassware	170
C—Metals and manufactures	391
D—Woods and manufactures of	35
E—Sugar, molasses and mfs. of	28
F—Tobacco and manufactures of	8
G—Agricultural products and provisions	187
H—Spirits, wines and other beverages	33
I—Cotton manufactures	261
J—Flax, hemp and lute manufactures	251
K—Wool and manufactures of	78
L—Silks and silk goods	78
M—Pulp papers and books	59
N—Sundries	270
Total	2,024

Significance of Changes.—Owing to changes in methods of valuation of goods or of assessment of duties, it is often difficult to determine the exact significance of a change in rates. Caution, therefore, must be exercised in drawing conclusions as to the incidence of taxation by comparisons of rates or of the amounts of duties collected under different systems of rates. The average rate (*see* DUTY ON IMPORTS, AVERAGE RATE OF) may be misleading and so also is the comparison of the numbers of increases and decreases in rates of different tariffs. For example, the Payne-Aldrich law left 1,150 of the 2,024 dutiable items in the Dingley law undisturbed; made 654 decreases and 220 increases. From this it was superficially concluded that the tariff of 1909 was lower in its incident than its predecessor. It is, however, obvious that nominal reductions in rates may have no significance, for the rates retained may still be prohibitive, or the reductions may apply to items in any case of little significance.

Illustrative Changes, 1789–1909.—As illustrative of the variations in duties in successive tariffs, some selected rates are given for a few important commodities, not including the gradual reductions authorized by the compromise tariff of 1833. For many articles of common use the rates are too complicated in recent tariffs to admit of tabular presentation:

PIG IRON		
1816	20	per cent
1818	50	cents per cwt.
1828	62½	cents per cwt.
1832	50	cents per cwt.
1842	45	cents per cwt.
1846	30	per cent
1857	21	per cent
1861	\$6.00	per ton
1861	9.00	per ton
1870	7.00	per ton
1883	6.72	per ton
1894	4.00	per ton
1909	2.50	per ton
1913	free	

STEEL RAILS		
1816	20	per cent
1857	15	per cent
1861	30	per cent
1862	35	per cent
1864	45	per cent
1870	\$28.00	per ton*
1883	17.00	per ton
1890	13.44	per ton
1894	7.84	per ton
1909	3.92	per ton
1913	free	

* For a few years this was approximately equivalent to the former 45 per cent ad valorem rate. By 1877 it became equivalent to 100 per cent.

COPPER (BARS AND INGOTS)		
1846	5	per cent.
1857	free	
1861	2	cents per lb.
1864	2½	cents per lb.
1869	5	cents per lb.
1883	4	cents per lb.
1890	1½	cents per lb.
1891 and subsequently	free	

TARIFF RATES

BITUMINOUS COAL

(Per Ton)

1789	-----	\$.56
1790	-----	.84
1792	-----	1.26
1794	-----	1.40
1812	-----	2.80
1816	-----	1.40
1824	-----	1.68
1842	-----	1.75
1846	-----	.65-.75
1857	-----	.55-.65
1861	-----	1.00
1862	-----	1.10
1864	-----	1.25
1872	-----	.75
1894	-----	.40
1897	-----	.67
1909	-----	.45
1913	-----	free

HIDES

Free until 1842

1842	-----	5 per cent.
1857	-----	4 per cent.
1861	-----	10 per cent.
1872	-----	free.
1890	-----	free.
1894	-----	free.
1897	-----	15 per cent.
1909 and subsequently	-----	free.

WOOL

(1867; Clothing, Wool)

1789	Free.
1824	30 per cent. ¹
1828	4 cents per lb. plus 50 per cent ad valorem.
1832	4 cents per lb. plus 40 per cent ad valorem.
1842	3 cents per lb. plus 30 per cent ad valorem.
1846	30 per cent.
1857	24 per cent.
1861	10 per cent.
1864	3-10 cents per lb. plus 10 per cent ad valorem on better grades.
1867	10 cents per lb. plus 11 per cent ad valorem to 12 cents plus 10 per cent. ²
1883	10-12 cents per lb. ³
1890	11 cents per lb.
1894	Free.
1897	11 cents per lb.
1909	11 cents per lb.
1913	Free.

¹ If valued at less than 10 cents per lb., duty was 15 per cent.

² Wool valued at 32 cents or less per lb. took the lower rate.

³ The dividing line was changed to 30 cents per lb.

BRUSSELS CARPETS (Body)

1789	5 per cent.
1790	7½ per cent.
1792	10 per cent.
1794	15 per cent.
1804	17½ per cent.
1812	35 per cent.
1824	50 cents per sq. yard.
1828	70 cents per sq. yard.
1832	63 cents per sq. yard.
1842	55 cents per sq. yard.
1846	30 per cent ad valorem.
1857	24 per cent ad valorem.
1861	50 cents per sq. yard but not less than 25 per cent ad valorem.
1864	80 cents per sq. yard but not less than 50 per cent ad valorem.
1883	30 cents per sq. yard plus 30 per cent ad valorem.
1890	44 cents per sq. yard plus 40 per cent ad valorem.
1894	40 per cent ad valorem.
1897	44 cents per sq. yard plus 40 per cent ad valorem.
1909	44 cents per sq. yard plus 40 per cent ad valorem.
1913	25 per cent.

COTTON CLOTH

(Not otherwise Provided for)

1790-1816	7½ per cent increasing to 35 per cent.
1816	25 per cent; minimum valuation at 25 cents per yard.
1824	Minimum changed to 30 cents.
1842	30 per cent, with varying minimums.
1846	25 per cent.
1857	19 per cent.
1861	30 per cent.
1862	35 per cent.
1890	50 per cent.
1894	35 per cent.
1897	45 per cent.
1909	45 per cent.
1913	30 per cent.

COTTON STOCKINGS

1883	40 per cent.
1890	50 cents per dozen, plus 30 per cent, if value is between 60c. and \$2.00 per dozen pairs. Other rates for stockings at other values. The class named constitutes the largest part of the importation.
1894	50 per cent ad valorem.
1897	(1) 50 cents per dozen plus 15 per cent, if valued not more than \$1.00 per dozen pairs. (2) 60 cents plus 15 per cent, if \$1.00 to \$1.50 per dozen. (3) 70 cents plus 15 per cent, if \$1.50 to \$2.00 per dozen. (4) \$1.20 plus 15 per cent, if \$2.00 to \$3.00 per dozen. (5) \$2.00 plus 15 per cent, if \$2.00 to \$5.00 (6) 55 per cent, if over \$5.00.
1909	Duties (1), (2), (3) increased to 70, 85, and 90 cents respectively plus 15 per cent; duties (4), (5) and (6) retained.
1913	30 per cent, if valued at less than 70 cents per dozen pairs; 40 per cent if valued at 70 cents to \$1.20 per dozen; 50 per cent if over \$1.20 per dozen.

SUGAR

(Raw, formerly Known as Brown)

1789	1 cent per lb.
1790	1½ cents per lb.
1797	2 cents per lb.
1812	4 cents per lb.
1816	3 cents per lb.
1832	2½ cents per lb.
1846	30 per cent.
1857	24 per cent.
1861	2 cents per lb.
1862	2½-3½ cents per lb. ¹
1864	3-3½ cents per lb.
1870	1¾-4 cents per lb.
1883	1 4/10-3 5/10 cents per lb.
1890	Free to 5/10 cents per lb. ²
1894	40 per cent.
1897	0.95-1.825 cents per lb.
1909	0.95-1.9 cents per lb.
1913	From March 1, 1914 to May 1, 1914, 0.72 cent per lb. plus 0.026 cent per lb. for each additional degree shown by polariscope test above 75; after May 1, 1914, free.

¹ Sugar is henceforth classified according to Dutch standard in color with an increasing scale of duties according to degree of refining.

² Additional duty of 1/10 cent per lb. if imported from country paying bounty.

COFFEE

1789-1816	Increasing rates from 2½ to 10 cents per lb.
1816	5 cents per lb.
1830	2 cents per lb.
1832	Free.
1861	5 cents per lb.
1870	3 cents per lb.
1872	and subsequently, free.

TEA

1789—6-45 cents per lb.¹
 1790—1816—Former rates gradually increased.
 1816—12-68 cents per lb.¹
 1830—Reduction.
 1832—Free on 10 cents per lb.²
 1841—Free.
 1861—15 cents per lb.
 1864—25 cents per lb.
 1870—15 cents per lb.
 1872—and subsequently, free.

¹ Varying according to kind, and whether imported in American or foreign vessels.

² Free if imported in United States vessels from beyond Cape of Good Hope.

See DUTY ON IMPORTS, AVERAGE RATE OF; DUTIES, AD VALOREM; TARIFF LEGISLATION, FRAMING OF; TARIFF POLICY OF THE UNITED STATES; UNDERWOOD TARIFF.

DAVIS R. DEWEY.

TARIFF REFORM. The term tariff reform as used in the United States has no clear and settled significance. In general it means the protest against the high duties of protective tariffs perpetuated since the Civil War period. In 1874 and 1876 there were efforts to make tariff reform a campaign issue, but there were too many other more absorbing public questions to afford opportunity for this.

The election of a Democratic President, Cleveland, together with a Democratic House of Representatives in 1884, first brought tariff reform to the front as a national issue of importance. President Cleveland approached the question with caution; he denied that there was any occasion for a discussion of the wisdom or expediency of a protective system—"we are confronting a condition, not a theory"—but in view of the surplus revenues suggested a reduction in taxes beginning with duties upon imported necessities of life. In following years he took more advanced ground; he held that taxation in excess of the needs of the Government was extortion; and that a freer entrance should be given to raw materials (*see* TAXATION OF RAW MATERIALS) which would stimulate manufactures and thus create a demand for American labor. In 1887 he devoted his entire message to tariff reform, setting forth that taxes were too exclusively laid for the farmer; combinations strangled competition which otherwise might lower domestic prices; tariff rates raised prices by "precisely" the sum paid for such duties. In undertaking reform he admitted that consideration must be given invested capital and to labor trained to establish industrial pursuits.

The Democratic House responded to this leadership and passed the Mills bill (1888) in which both recommendations as to change in duties were followed—reduction on the necessities of life and free raw materials. On the free list were placed wool, hemp, flax, and lumber—raw materials—and also such necessities as soap, bricks, salt, and lime. On cotton and woolen goods there were substantial reductions. The bill, however, as a re-

form measure did not ring true. Coal and iron—raw materials—were still taxed, and such necessities as sugar and rice were given ample protection.

Tariff reform was defeated in the election of 1888; the protectionists were too strongly intrenched; the appeal for free raw materials was easily construed as an attack upon the domestic farmer and ranchman; and the inconsistencies of the Democratic program as evidenced in the Mills bill chilled popular enthusiasm.

Recent Statutes.—In 1894, the Democrats had the opportunity of accomplishing a genuine tariff reform. Again emphasis was placed upon free raw materials and reduction in duties upon the necessities of life. The House now took a consistent stand and put iron ore, coal, and sugar as well as lumber, jute, flax, and hemp, on the free list. The Senate abandoned principle and resorted to the traditional method of bargaining and sectional advantage. Tariff reform was again discredited (*see* WILSON-GORMAN TARIFF) and from that date it was, if anything, less significant than before Cleveland endeavored to give it a concrete meaning. Presidential campaigns continued to be fought over the tariff, but congressional debate and votes were concerned more with rates than with principles. In 1913, however, a Democratic administration assumed office and in the same year fulfilled the pledge of their platform by enacting the Underwood Tariff (*see*) which added many articles in common use to the free list and affected a revision of the tariff schedules which reduced the average rate of duty on imports by about 30 per cent.

Tariff reformers do not agree, some wish to free sugar of all taxation as a concession to the consumer; others, following English precedent, favor its taxation in order to provide a revenue which otherwise must come from duties on manufactured products inextricably bound up in the protective system. It is not probable that any decisive step will be taken in the near future; but that changes will be gradual until it is clearly apparent that American manufactures and producers do not need high protective duties in order to obtain their share of the foreign markets of the world in the selling of American merchandise.

See DEMOCRATIC PARTY; REPUBLICAN PARTY; TARIFF FOR REVENUE ONLY; TARIFF LEGISLATION, FRAMING OF; TARIFF POLICY OF THE UNITED STATES; TARIFF RATES; TAXATION OF RAW MATERIALS; UNDERWOOD TARIFF; and tariffs by name.

References: W. G. Sumner, *Protectionism* (1885); D. A. Wells, *Recent Economic Changes* (1893); J. Sherman, *Recollections*, (1895), II, 1201-1208, "Tariff Literature in the Campaign" in *Quart. Journ. of Econ.*, III (1889), 212-217.

DAVIS R. DEWEY.

TARIFF STATISTICS

Classification.—Efforts have been made to classify imported merchandise according to degree of manufacture and use, and from such tables to compare how far duties fall upon the necessities of life and luxuries respectively, and to distinguish between taxation on raw materials and finished products. Such classifications are more or less arbitrary. For many years the Bureau of Statistics (in 1912 incorporated in the Bureau of Foreign and Domestic Commerce) in the annual *Statistical Abstract* classified imported merchandise by the following groups: (1) articles of food and animals; (2) articles in the crude condition which enter into the various processes of domestic industry; (3) articles wholly or partially manufactured for use as materials in manufactures and the mechanic arts; (4) articles manufactured, ready for consumption; (5) articles of voluntary use, luxuries, etc. More recently this classification has been modified as follows: (1) foodstuffs in crude

I. FREE AND DUTIABLE IMPORTS AND AVERAGE DUTIES, 1791—1912

Fiscal Year	Free (Millions)	Per Cent of Free Goods	Dutiable (Millions)	Per Cent of Duties to Value of Dutiable Imports	Total (Millions)	Per Cent of Duties to Total Im- ports
1791	----	----	----	----	\$ 28.7	15
1800	----	----	----	----	52.1	17
1810	----	----	----	----	61.0	14
1820	----	----	----	----	56.1	27
1830	\$ 3.5	7	\$ 46.1	62	49.6	57
1840	42.1	49	44.1	34	86.3	18
1850	16.0	9	148.1	27	164.0	25
1860	68.4	20	267.9	20	336.3	16
1861	67.4	25	207.2	19	274.6	14
1862	49.8	28	128.5	36	178.3	26
1863	30.0	12	195.3	33	225.4	28
1864	38.2	13	262.9	37	301.1	32
1865	40.1	19	169.6	48	209.6	38
1866	57.1	16	366.3	49	423.5	42
1867	17.0	5	361.1	47	378.2	45
1868	15.1	4	329.7	49	344.8	46
1869	21.7	6	372.8	47	394.4	45
1870	20.2	5	406.1	47	426.3	42
1871	40.6	8	459.6	44	500.2	39
1872	47.7	9	512.7	41	560.4	37
1873	178.4	27	484.7	38	663.1	27
1874	151.7	27	415.7	39	567.4	27
1875	146.6	28	379.8	41	526.3	28
1876	140.6	30	324.0	45	464.6	30
1877	140.8	32	299.0	43	439.8	27
1878	141.3	32	297.1	43	438.4	27
1879	142.6	32	296.7	45	439.3	29
1880	208.0	33	419.5	43	627.6	29
1881	202.6	31	448.1	43	650.6	30
1882	210.7	29	505.5	43	716.2	30
1883	206.9	30	493.9	42	700.8	30
1884	211.3	31	456.3	42	667.6	28
1885	192.9	33	386.7	46	579.6	31
1886	211.5	34	413.8	46	625.3	30
1887	233.1	34	450.3	47	683.4	31
1888	244.1	34	468.1	46	712.2	30
1889	256.6	35	484.0	45	749.3	30
1890	258.1	34	507.6	44	765.7	29
1891	379.0	45	466.5	46	845.5	25
1892	448.8	56	355.5	49	804.3	21
1893	432.5	52	400.3	50	832.7	23
1894	372.5	59	257.6	50	630.1	20
1895	376.9	52	354.3	42	731.2	20
1896	368.9	49	390.8	40	759.7	21
1897	381.9	48	407.3	42	789.3	22
1898	291.5	50	295.6	49	587.2	25
1899	299.7	44	385.8	52	685.4	29
1900	366.8	44	463.8	49	830.5	28
1901	339.1	42	468.7	50	807.8	29
1902	296.5	44	503.3	50	899.8	28
1903	437.3	43	570.7	49	1008.0	28
1904	454.2	46	527.7	49	981.8	26
1905	517.1	48	570.0	45	1087.1	24
1906	548.7	45	664.7	44	1213.4	24
1907	642.0	45	773.4	43	1145.4	23
1908	525.7	44	657.4	43	1183.1	24
1909	599.4	47	682.3	43	1281.6	23
1910	761.4	49	785.8	42	1547.1	21
1911	776.9	51	750.9	41	1527.9	20
1912	881.5	54	759.2	40	1640.7	19

TARIFF STATISTICS

II. RECEIPTS FROM CUSTOMS AND INTERNAL REVENUE, AND PROPORTION OF CUSTOMS,
1791-1912

Year	Customs	Internal Revenue	Total Ordinary Receipts	Percentage of Customs	Year	Customs	Internal Revenue	Total Ordinary Receipts	Percentage of Customs
	Millions	Millions	Millions			Millions	Millions	Millions	
1791	\$ 4.4	-----	\$ 4.4	100	1852	\$47.3	-----	\$49.8	95
1792	3.4	\$.2	3.7	92	1853	58.9	-----	61.6	95
1793	4.3	.3	4.7	92	1854	64.2	-----	73.8	87
1794	4.8	.3	5.4	91	1855	53.0	-----	65.4	81
1795	5.6	.3	6.1	92	1856	64.0	-----	74.1	86
1796	6.6	.5	8.4	79	1857	63.9	-----	69.0	92
1797	7.5	.6	8.7	86	1858	41.8	-----	46.7	89
1798	7.1	.6	8.0	89	1859	49.6	-----	52.8	94
1799	6.6	.8	7.5	88	1860	53.2	-----	56.1	95
1800	9.1	.8	10.8	84	1861	39.6	-----	41.5	95
1801	10.8	1.0	12.9	84	1862	49.1	-----	51.9	95
1802	12.4	.6	15.0	83	1863	69.1	\$37.6	112.1	62
1803	10.5	.2	11.1	95	1864	102.3	109.7	262.7	38
1804	11.1	.1	11.8	94	1865	84.9	209.5	327.3	25
1805	12.9	-----	13.6	95	1866	179.0	309.2	557.8	32
1806	14.7	-----	15.6	94	1867	176.4	266.0	477.0	37
1807	15.8	-----	16.4	96	1868	164.5	191.1	398.4	41
1808	16.4	-----	17.1	96	1869	180.0	158.4	369.6	49
1809	7.3	-----	7.8	95	1870	194.5	184.9	411.3	47
1810	8.6	-----	9.4	92	1871	206.3	143.1	383.3	51
1811	13.3	-----	14.4	92	1872	216.4	130.6	374.1	58
1812	9.0	-----	9.8	92	1873	188.1	113.7	333.7	56
1813	13.2	-----	14.3	92	1874	163.1	102.4	305.0	53
1814	6.0	1.7	11.2	54	1875	157.2	110.0	288.0	54
1815	7.3	4.7	15.7	46	1876	148.1	116.7	293.8	50
1816	36.3	5.1	47.7	74	1877	131.0	118.6	281.3	46
1817	26.3	2.7	33.4	79	1878	130.2	110.6	257.8	51
1818	17.2	1.0	21.6	80	1879	137.3	113.6	272.3	50
1819	20.3	.2	24.6	82	1880	186.5	124.0	333.5	51
1820	15.0	.1	17.8	84	1881	198.2	135.3	360.8	55
1821	13.0	.1	14.6	89	1882	220.4	146.5	403.5	54
1822	17.6	.1	20.2	87	1883	214.7	144.7	398.3	54
1823	19.1	-----	20.5	93	1884	195.1	121.6	348.5	56
1824	17.9	-----	19.4	92	1885	181.5	112.5	323.7	56
1825	20.1	-----	21.8	92	1886	192.9	116.8	336.4	57
1826	23.3	-----	25.3	92	1887	217.3	118.8	371.4	58
1827	19.7	-----	23.0	86	1888	219.1	124.3	379.3	58
1828	23.2	-----	24.8	95	1889	223.8	130.9	387.1	58
1829	22.7	-----	24.8	93	1890	229.7	142.6	403.1	57
1830	21.9	-----	24.8	88	1891	219.5	145.7	392.6	56
1831	24.2	-----	28.5	85	1892	177.5	154.0	354.9	50
1832	28.5	-----	31.9	89	1893	203.4	161.0	385.8	53
1833	29.0	-----	33.9	85	1894	131.8	147.1	297.7	44
1834	16.2	-----	21.8	74	1895	152.2	143.4	313.4	48
1835	19.4	-----	35.4	55	1896	160.0	146.8	327.0	49
1836	23.4	-----	50.8	46	1897	176.6	146.7	347.7	51
1837	11.2	-----	25.0	45	1898	149.6	170.9	405.3	37
1838	16.2	-----	26.3	62	1899	206.1	273.4	516.0	40
1839	23.1	-----	31.5	73	1900	233.2	295.3	567.2	41
1840	13.5	-----	19.5	69	1901	238.6	307.2	587.7	41
1841	14.5	-----	16.9	86	1902	254.4	271.9	562.5	45
1842	18.2	-----	20.0	91	1903	284.5	230.8	560.4	51
1843	7.0	-----	8.2	85	1904	261.3	232.9	539.7	48
1844	26.2	-----	29.3	89	1905	261.8	234.1	544.6	48
1845	27.5	-----	30.0	92	1906	300.3	249.2	594.7	50
1846	26.7	-----	29.7	90	1907	332.2	269.7	663.1	49
1847	23.7	-----	26.5	90	1908	286.1	251.7	601.1	48
1848	31.8	-----	35.7	89	1909	300.7	246.2	603.6	50
1849	28.3	-----	30.7	92	1910	333.7	289.9	675.5	49
1850	39.7	-----	43.6	91	1911	314.5	322.5	701.4	45
1851	49.0	-----	52.6	93	1912	311.3	321.6	691.8	45

condition, and food animals; (2) foodstuffs partly or wholly manufactured; (3) crude materials for use in manufacturing; (4) manufactures for further use in manufacturing; (5) manufactures ready for consumption; (6) miscellaneous. Selecting the year 1895 for illustration, "manufactures ready for consumption" according to the first classification contributed 19.25 per cent of the total imports, and under the second, 27.26 per cent.

Two sets of statistics are in current use relating to imported merchandise under classified headings. One classification is by schedules of the tariff acts; the other disregards the schedules and classifies articles ac-

cording to their commercial and industrial definition. The result is wide variation for some classes and confusion in their use. For example, under the head of "spirits, wines and liquors" the figures of the Bureau of Statistics of the Department of Commerce and Labor which follows the natural classification of use, do not include fruit juices, ginger ale, soda, or mineral waters, all of which are covered in the same tariff schedule. As a consequence we find different average ad valorem rate calculations. In the debate on the tariff bill of 1909, the Senate committee on finance stated that the average ad valorem rate of duty in 1907 for the above schedule was 44.68 per cent,

TARIFF STATISTICS

III. DUTIES ON SELECTED CLASSES OF IMPORTS, WITH PERCENTAGES OF TOTAL DUTIES (1867-1912)

Year	Sugar, Molasses and Confectionery			Cotton, Manufactures of			Wool, Manufactures of			Wool, Raw		
	Duties (Millions)	Average Ad Valorem Rate	Percent- age of Duties to Total Customs	Duties (Millions)	Average Ad Valorem Total	Percent- age of Duties to Total Customs	Duties (Millions)	Average Ad Valorem Rate	Percent- age of Duties to Total Customs	Duties (Millions)	Average Ad Valorem Rate	Percent- age of Duties to Total Customs
1867	\$32.6	69	18	\$9.6	40	5	---	---	---	---	---	---
1868	34.9	63	21	7.2	43	4	---	---	---	---	---	---
1869	35.1	58	20	8.2	43	5	---	---	---	---	---	---
1870	40.7	57	21	9.2	42	5	---	---	---	---	---	---
1871	32.6	46	15	10.8	41	5	---	---	---	---	---	---
1872	31.0	36	14	12.3	41	6	---	---	---	---	---	---
1873	32.0	36	17	11.6	36	6	---	---	---	---	---	---
1874	34.9	38	21	9.0	36	6	---	---	---	---	---	---
1875	37.2	45	24	9.0	37	6	---	---	---	---	---	---
1876	41.9	55	28	8.0	40	5	---	---	---	---	---	---
1877	37.1	46	28	6.6	39	5	17.6	67	13	2.7	38	2
1878	38.8	44	30	6.5	39	5	17.2	67	13	2.7	39	2
1879	40.3	54	29	6.6	39	5	16.8	67	12	2.0	36	1
1880	42.2	55	23	10.0	38	5	21.9	69	12	7.4	41	5
1881	48.0	53	24	10.8	38	5	22.4	68	11	4.9	40	2
1882	49.2	52	22	12.2	39	6	25.4	68	12	3.9	37	2
1883	46.2	51	22	12.2	38	6	29.1	68	14	3.2	37	1
1884	48.9	52	24	11.5	40	6	27.5	66	14	4.6	33	2
1885	52.2	70	29	10.9	40	6	24.3	67	13	3.2	33	2
1886	51.8	67	27	11.8	40	6	27.3	67	14	5.1	37	2
1887	58.0	78	26	11.7	40	5	29.7	67	14	5.9	36	3
1888	52.0	75	24	11.5	40	5	32.2	68	15	4.7	34	2
1889	56.0	67	25	10.8	40	5	35.4	67	16	6.0	34	3
1890	55.2	63	24	11.7	40	5	37.4	69	16	5.5	34	2
1891	32.5	76	15	14.9	51	7	34.9	81	16	6.6	38	3
1892	.1	20	--	16.4	57	7	34.3	96	19	7.8	44	4
1893	.2	15	--	19.0	57	9	36.5	99	18	8.1	44	4
1894	.3	14	--	12.2	56	9	19.1	97	14	2.1	41	1
1895	15.6	40	10	15.7	47	10	20.7	57	14	.2	39	--
1896	29.9	41	19	14.8	46	9	23.1	48	14	---	---	--
1897	41.3	42	23	16.3	46	9	22.7	46	13	2.4	47	2
1898	29.5	42	20	14.6	55	10	10.2	77	7	4.0	47	2
1899	61.6	76	30	17.7	56	9	13.3	95	6	7.4	49	3
1900	57.7	71	25	22.0	55	10	14.3	91	6	8.1	51	3
1901	63.0	72	26	21.8	55	9	13.4	91	6	10.8	59	4
1902	53.0	87	21	24.5	55	9	15.5	92	6	11.6	55	4
1903	63.6	96	22	27.8	54	10	17.6	91	6	10.9	49	4
1904	58.2	75	22	26.3	54	10	16.3	93	6	16.5	47	4
1905	51.4	56	20	26.6	54	10	16.5	92	6	17.8	44	4
1906	52.6	61	17	33.3	54	11	20.2	90	7	16.6	41	5
1907	60.3	65	18	39.0	53	12	20.0	89	6	11.4	43	6
1908	50.2	60	17	34.6	52	12	17.4	91	6	17.1	49	4
1909	56.4	60	19	33.1	53	11	16.3	90	5	21.1	44	6
1910	53.1	52	16	38.1	56	11	20.8	90	6	12.5	42	4
1911	52.8	54	17	35.8	56	12	16.4	88	5	14.5	44	4
1912	50.9	48	17	35.3	56	12	12.6	83	4	---	---	5

III. DUTIES ON SELECTED CLASSES OF IMPORTS, WITH PERCENTAGES OF TOTAL DUTIES (1867-1912)—Continued

Year	Silk, Manufacturers of			Iron and Steel, and Manufactures of			Spirits, Wines and Malt Liquors			Tobacco and Manufactures of		
	Duties (Millions)	Average Ad Valo- r- em Rate	Percent- age of Duties to Total Customs	Duties (Millions)	Average Ad Valo- r- em Rate	Percent- age of Duties to Total Customs	Duties (Millions)	Average Ad Valo- r- em Rate	Percent- age of Duties to Total Customs	Duties (Millions)	Average Ad Valo- r- em Rate	Percent- age of Duties to Total Customs
1867	\$11.0	59	6	---	---	---	---	---	---	2.3	131	1
1868	10.5	57	6	---	---	---	---	---	---	2.4	125	2
1869	12.7	57	7	---	---	---	---	---	---	2.9	104	2
1870	13.9	57	7	---	---	---	---	---	---	3.7	93	2
1871	18.0	58	9	---	---	---	---	---	---	4.0	92	2
1872	20.3	58	9	---	---	---	---	---	---	5.5	86	3
1873	17.3	57	9	---	---	---	---	---	---	6.3	76	3
1874	14.2	56	9	---	---	---	---	---	---	6.2	73	4
1875	14.0	57	9	---	---	---	---	---	---	5.3	74	3
1876	13.9	59	9	---	---	---	---	---	---	4.7	76	3
1877	12.8	59	10	6.2	31	5	---	86	4	4.4	76	3
1878	12.2	59	9	5.9	32	5	5.2	83	4	4.6	76	4
1879	14.0	59	10	5.7	34	4	5.4	81	4	4.3	75	3
1880	18.6	59	10	23.2	37	12	6.2	76	3	4.7	76	3
1881	19.0	59	10	25.6	39	13	7.2	72	3	6.0	73	3
1882	22.6	59	10	29.0	41	13	9.3	69	3	7.7	80	4
1883	19.7	59	9	21.6	38	10	9.3	79	4	7.4	81	4
1884	19.0	50	10	14.8	34	7	7.2	77	3	7.7	81	4
1885	14.0	50	8	12.0	35	7	7.4	74	3	8.3	81	4
1886	13.9	50	7	14.6	38	7	7.3	73	3	9.1	83	4
1887	15.5	50	7	20.7	41	10	7.7	72	4	9.7	79	4
1888	16.4	50	7	21.3	42	10	7.8	71	3	11.1	82	5
1889	17.3	50	8	16.9	39	8	8.5	67	4	13.3	80	6
1890	18.9	50	8	15.4	35	7	9.5	79	3	16.2	77	7
1891	19.4	52	9	18.3	33	8	8.8	69	5	10.3	101	7
1892	17.0	54	10	16.5	55	9	9.3	68	5	14.8	118	6
1893	20.3	54	10	21.9	63	11	6.9	70	5	13.7	121	10
1894	12.8	53	9	14.1	68	10	6.9	63	5	14.9	109	9
1895	14.7	48	10	11.6	48	6	6.7	61	4	21.0	112	12
1896	12.5	47	8	10.1	39	4	8.0	69	4	9.9	121	6
1897	12.4	47	7	6.6	40	4	5.7	66	4	10.6	113	5
1898	12.2	54	8	5.8	46	4	7.1	70	3	14.4	106	6
1899	13.5	54	7	5.1	44	2	8.0	71	3	16.7	111	7
1900	15.8	52	7	7.8	37	3	9.1	70	4	18.8	115	7
1901	14.2	53	6	7.0	38	4	10.1	71	4	21.9	120	8
1902	17.3	54	7	10.5	32	6	11.2	72	4	21.2	118	8
1903	19.3	54	7	16.9	37	4	11.6	73	5	22.7	109	9
1904	16.6	53	6	9.7	31	3	13.5	74	4	23.9	104	8
1905	17.0	53	6	8.4	38	3	15.8	73	5	26.1	87	8
1906	17.4	53	6	9.8	32	4	14.7	74	5	23.3	84	8
1907	20.2	53	6	12.3	29	3	15.7	72	5	22.2	85	8
1908	16.5	52	6	9.3	35	3	17.6	74	5	24.1	82	7
1909	16.2	53	5	8.2	28	3	16.7	90	5	26.2	88	8
1910	17.7	53	5	12.4	33	4	16.8	89	6	25.6	82	8
1911	16.8	53	5	10.2	32	3	---	---	---	---	---	---
1912	14.1	52	5	8.8	34	3	---	---	---	---	---	---

while the rate, according to the Bureau of Statistics, was 53.38 per cent.

Consumption Value and Average Rates.—An illogical method of comparing the tariff with another by statistical data is to use the consumption values of goods on which duties are increased and decreased. For example, in the schedule devoted to agricultural products and provisions, the value of the articles consumed in this country upon which duties were decreased by the Payne-Aldrich tariff of 1909 was \$483,000,000; the consumption value of the articles on which duties were increased was \$4,000,000. Taking all the schedules together, the duties were decreased on articles having a consumption value of \$4,952,000,000, and increased on \$879,000,000. Such a comparison is specious as a test of the incidence of taxation; many articles, such as those in the agricultural schedule, are produced at home because of natural advantages, never enter into foreign commerce, and would not if there were no tariff at all. No expansion of their production and no lowering of duties on foreign products, which as a matter of fact are not going to be imported, affect the question whether there has been a lowering of the particular tariff or general scale.

The need of care in the use of tariff statistics may again be seen from the following illustration: In the first six months after the passage of the tariff act of 1909 the average rate of duty paid on all imports was 21.09 per cent ad valorem as compared with 24.03 per cent for the corresponding six months in the four preceeding years. From this it might be inferred that there had been a general reduction in duties. Moreover in the first six months of the tariff of 1909, 51.6 per cent of the total imports came in free as compared with 45.5 per cent in the previous period. On the other hand the per capita receipts under the Payne-Aldrich tariff of 1909 were \$3.71 as compared with \$3.23 under the Dingley tariff.

Tables.—The accompanying tables contain facts which are helpful for forming a judgment concerning the real incidence of the tariff:

I. Imports, free and dutiable, 1791–1912.

II. Receipts from customs, internal revenue and ratio of customs to total ordinary revenue, 1791–1912.

III. Duties on certain classes of imports with percentage of each to total customs duties, 1867–1912.

See DUTY ON IMPORTS, AVERAGE RATE OF; PUBLIC REVENUE, SOURCES OF. **References:** Department of Commerce and Labor, *Annual Statistical Abstract*; William W. Evans "Imports and Duties, 1894–1907" in Committee on Ways and Means, *Report* (1908); *Import Duties from 1867 to 1883, House Misc. Docs.*, 48 Cong., 1 Sess., No. 49 (1884); F. W. Taussig, *Tariff Hist. of the U. S.* (1903). 409–417; *Am. Year Book*, 1910, and year by year.

DAVIS R. DEWEY.

TATTOOED MAN. A nickname applied to James G. Blaine (*see*) by the Democrats in the campaign of 1884. It had its origin in a cartoon by Thomas Nast published in *Puck*, representing Blaine as indelibly tattooed with expressions suggesting corruption.

O. C. H.

TAX COMMISSIONER AND COMMISSIONS. Tax commissions are of two kinds: (1). Special or temporary commissions are created by legislative authority, to investigate and report on the nature and working of the state revenue system, to ascertain defects and suggest methods of improvement. To these ends, comparison of arrangements and experience in other states is often specifically ordered. Growing discontent with state and local systems of finance has occasioned special tax commissions with increasing frequency in the last quarter century—fifteen reports in different states having appeared from 1808 to 1812.

(2). Permanent tax commissions exist in thirteen states (New York, New Jersey, North Carolina, Alabama, Ohio, Indiana, Michigan, Wisconsin, Minnesota, Kansas, Washington, Oregon, Arkansas); a permanent tax commissioner in six other states (Massachusetts, Connecticut, Vermont, Maryland, West Virginia, Wyoming). They are elected in North Carolina, appointed by the governor in other states. Most of them originated, others were strengthened, in the decade from 1900 to 1910.

Though their functions and powers vary from state to state, the tendency is to increase both. The more efficient have for main functions to supervise tax assessment and administration, state and local; to assess certain classes of property which are specially difficult to assess locally, such as railways, telegraphs, telephones, express and sleeping car services, other public utilities; to equalize assessments between localities, requiring reassessments if deemed expedient. They instruct assessors and tax officials how to perform their duties, and to keep their records; they may prescribe uniform methods of proceeding, recording, accounting. They must periodically visit counties and make investigations, must prosecute delinquent officials or taxpayers, and make periodical reports explaining conditions and suggesting possible improvements in the revenue system. By their agency, the inequality and inadequacy of assessments have been ameliorated, tax evasion diminished, revenues expanded, tax rates reduced. Their reports are educative, revealing defects and showing superior features in the tax systems of other states and countries.

See ASSESSMENT OF TAXES; FINANCE, STATE SYSTEMS OF; PUBLIC ACCOUNTS; REVENUE, PUBLIC, COLLECTION OF; TAXATION.

References: E. R. A. Seligman, "Recent Reports on State and Local Taxation" in *Am. Econ. Review*, I (1911), 272-295; *Essays in Taxation* (2d ed., 1897), ch. xiii; J. W. Chapman, *State Tax Commissions in the U. S.* (1897); J. A. Fairlie, "Taxation and Revenue System of Illinois" in Illinois Special Tax Commission, *Report* (1910), ch. ix; *Reports of State Tax Commissions and Special Tax Commissions.* E. H. VICKERS.

TAX, DIRECT. See TAXES, DIRECT.

TAX DODGING. This term refers to the practice whereby a taxpayer who has a nominal business residence in a city chooses for a legal residence a town where the tax rate is low, or assessment made at a low valuation. In Massachusetts there are said to be a score of towns within easy reach of Boston, which are settled and controlled by wealthy families whose social and commercial interests are with Boston rather than with the town of legal residence. See ASSESSMENT OF TAXES; TAX, PERSONAL PROPERTY. **Reference:** F. W. Taussig, *Principles of Economics* (1911), II, 533. D. R. D.

TAX, DOG. A widely distributed tax on personal property, intended chiefly to identify the animals. In many parts of the country, dogs do great damage to sheep and even cattle; and a tax tends to keep down the number. To identify dogs which may have injured persons, in some cities they must wear a collar with their license number. The tax is commonly a flat rate of so much a year: the proceeds are nowhere significant. See ASSESSMENT OF TAXES; TAX, PERSONAL PROPERTY; TAXATION, SUBJECTS OF.

A. B. H.

TAX, DUPLICATE. Term applied in state and local taxation to the assessment roll on which real and personal property is listed. This roll is also known in some localities as the grand duplicate, and in others as the grand list. See ASSESSMENT OF TAXES.

D. R. D.

TAX, EXCISE. See EXCISE TAX.

TAX, FRANCHISE. See FRANCHISE TAX.

TAX, HABITATION. The habitation or building tax is a tax on the rental value of buildings, more particularly those occupied as dwellings. As yet it has not been used in the revenue systems of cities of the United States. It has, however, been proposed by several commissions of inquiry as a substitute for the tax on personal property, as for example, by the New York Tax Commission of 1871; by R. T. Ely, of the Maryland Tax Commission of 1888; by the Massachusetts Tax Commission of 1897; and by the minority of the New York Special Tax Commission of 1906. It is advocated on the ground that a man's residence is an index of his income, and furnishes a convenient measure of his ability to pay a tax on intangibles which escape taxation. The objection is that, while the relation between income to rental may be true of classes of society as a whole, it is not true of individuals. In substance it is a form of income tax, using rental as a measure of income. See under TAXATION. **Reference:** J. B. Phillips, "The Habitation Tax" in National Tax Association, *State and Local Taxation, Addresses and Proceedings* (1908), 168-182. D. R. D.

TAX, HEAD, ON IMMIGRANTS. See IMMIGRANTS, HEAD TAX ON.

TAX, INCOME

Definition.--According to strict economic definition, income means net income, and an income tax signifies a tax on net income. As used, however, in American experience this term has not been confined to such precise significance. The term is applied indiscriminately to taxes imposed upon assumed as well as actual earnings. Again, the income tax is to be distinguished from the tax on corporate earnings, which forms a part of the taxes on corporations in many states. In popular acceptance an income tax is a tax upon a person's income, from whatever source, rather than upon the thing itself which produces the income.

Early State Taxes.--The American colonies early introduced into their revenue systems a tax on faculty or ability, to supplement the tax on land and estates. It first appeared in

explicit form in the Plymouth Colony in 1643, and in the Massachusetts Bay Colony in 1646. Later it was adopted in most of the other colonies, the marked exception being New York. No systematic attempt, however, was made to determine the real income of the taxpayer. These taxes were for the most part levied arbitrarily upon the occupation of the individual, in order to reach those who did not gain their livelihood by farming, and consequently did not contribute under the general property tax. During the latter half of the eighteenth and the first quarter of the nineteenth centuries, these taxes dropped out of use except in Massachusetts and South Carolina.

About 1840 various forms of an income tax were imposed in a number of states. For example, Pennsylvania authorized a tax of

one per cent upon all salaries, and of one mill upon each dollar of income received by persons engaged in trade or professions, who were not otherwise taxed. In Maryland a tax of two and a half per cent upon salaries and incomes from professions and employment was imposed in 1842. Virginia, in 1843, levied a tax of one per cent on all incomes over \$400, exempting, however, ministers and laborers engaged in mechanic arts, trade, and manufactures. In North Carolina, a tax of three per cent was placed (1849) upon money at interest and profits derived from investments. Similar taxes were imposed in Alabama and Florida. These taxes were frequently modified by subsequent legislation. Strictly interpreted they resembled license taxes rather than an income tax, as now used.

Further attempts were made by southern states during the period of the Confederacy to give greater vigor to this tax. The results, however, were not successful, and as a rule the tax was dropped shortly after the close of the war. It survived only in Virginia and North Carolina. To these two states should be added Massachusetts in the North, which had retained the tax from the colonial period. In this state the old faculty tax had been transformed into a true income tax. In 1821 it was enacted that the tax be levied upon "the amount of the income . . . from any profession, handicraft, trade or employment, or gained by trading at sea or on land, and also all other property . . ." In 1849, \$600 of income was exempted; in 1866, \$1000; and in 1873, \$2000. The tax has practically been a failure. In Boston, for example, in 1894, the assessed incomes were only \$742,000.

Recent State Taxes.—Virginia, in 1898, revised its income tax law, levying a tax of one per cent upon incomes over \$600. In 1910 it yielded \$107,000. North Carolina, in 1887, distinguished between income from salaries and income from property, and for a few years (1893–1901) made the rates progressive. In the latter year, however, it returned to the proportional method. In 1909 the total yield was only \$37,000. In South Carolina an income tax was once more authorized in 1907, and in 1908 a progressive income tax was imposed in Oklahoma exempting incomes up to \$3500. In 1911, Wisconsin, after long discussion and careful deliberation, enacted an income tax law which ultimately is to take the place of the personal property tax. The original act was repealed in 1913 and a new law enacted, more simple in its administrative provisions than the first. Supervision of assessment is exercised by the state tax commission. Incomes under \$800 are exempt, with increasing amounts according to the size of the family. The rate is one per cent on the first \$1,000 and is progressive to six per cent on incomes above \$12,000.

The reason for the failure of state income taxes is not far to seek. It is practically the same as that which limits the general property tax, namely, self-assessment instead of applying the principle of collection at the source, as in England and in the federal system adopted in 1913.

First Federal Income Tax (1862).—In its search for revenue during the emergency period of the Civil War, Congress in 1862 enacted an income tax, to be levied upon annual gains or incomes "derived from any kind of property, rents, interest, dividends, salaries, or from any profession, trade, employment, or vocation." The rate was three per cent for incomes under a thousand dollars, and five per cent for those above. An exemption of \$600 was allowed. In addition, certain classes of corporations paid taxes on gross receipts or on dividends. The principle of stoppage at the source was adopted for government employees, the tax being withheld by disbursing officers. The tax was temporary, running for three years.

In 1864 the law was revised, the principle of graduation was developed, and rates were increased to five per cent on the excess of \$600 up to \$5,000; seven and a half per cent on the excess over \$5,000 up to \$10,000; and ten per cent on the excess over \$10,000. The tax was to expire in 1870. In that year, however, it was extended through 1871, the rate being changed to two and a half per cent on incomes above \$2,000. By this time the fiscal needs of the government had so improved that proposals for the continuance of the tax received little support. The yield by years, and also the number of persons paying the tax, was as follows:

Year	Number of Persons	Amount Collected
1863	-----	\$ 2,741,000
1864	-----	20,294,000
1865	-----	32,050,000
1866	460,170	72,982,000
1867	266,135	66,014,000
1868	254,617	41,455,000
1869	272,843	34,791,000
1870	276,661	37,775,000
1871	74,775	19,000,000
1872	72,949	14,436,000
1873	-----	5,062,000

The total revenue for the entire period was \$347,000,000, more than one-fourth of which came from incomes between \$1,000 and \$2,000. Notwithstanding the productiveness of this tax, which was paid largely because of patriotism and loyalty during the period of a great national struggle, it had many defects. The principle of stoppage at the source was applied (with few exceptions) only to government employees. The administration opened the way to deceit in permitting the rental value of home property to be deducted in the determination of income; the progressive scales for graduating the tax were crude;

and the reliance placed upon self-assessment involved many of the evils of the general property tax.

Second Federal Tax (1894).—A federal income tax was again incorporated into the revenue system when the Democrats planned to reduce customs duties, and it was argued that new sources of revenue were required to make good the possible deficit. Moreover the treasury was embarrassed owing to the loss of confidence in national credit occasioned by the silver agitation. Aside from these fiscal needs was the growing feeling that wealth should contribute a larger share to the support of the government. The agitation of Populism (*see*), and less consciously of socialism (*see*), had made great headway; and the sudden growth of large fortunes, accompanied by the trust movement, convinced many that the existing system of the distribution of wealth was inequitable, and that a special taxation of the rich was justified.

The Wilson-Gorman tariff (*see*), August 28, 1894, provided for a tax for five years of two per cent on incomes in excess of \$4,000, to be laid both upon persons and upon corporations. In most of its details the law was modelled upon those enacted during the Civil War. No deduction, however, was allowed for the estimated rental of the home; and in some particulars the methods of assessment were made more exacting and precise. The chief difference, however, was in placing the point of exemption at the high limit of \$4,000. Obviously only a comparatively few taxpayers would be brought within its scope.

Court Decisions.—Doubts as to the constitutionality of the tax were immediately raised. It was asserted that an income tax was a direct tax (*see* TAXES DIRECT), and according to the Constitution must be levied in proportion to population. The same objection had been made to the earlier income tax acts, but a series of decisions of the Supreme Court upheld that legislation. The Court, however, had not expressed itself specifically as to whether a tax on income from real estate was a direct tax or not, and this particular issue was now made the center of attack.

Notwithstanding the earlier decisions, it was also contended that a tax on income from personalty was an income tax; and that a tax on income from state bonds was unconstitutional, inasmuch as the Federal Government had no right to tax the agencies of state governments. The contention as to the tax on income from land and from state bonds was upheld by the Supreme Court in the case of *Pollock vs. Farmers Loan and Trust Company* (157 U. S. 429). On the first issue the Court divided, and on the latter it was unanimous. As to whether a tax on income from personalty was a direct tax or not, the Court was evenly divided. As the result of a rehearing, however, the Court, by a majority

of five to four, decided conclusively against the act on all three points.

Sixteenth Amendment (1913).—In 1908 the Democrats in their national platform advocated an amendment to the Constitution whereby an income tax might be levied, and in the following year the Republicans, in order to secure support for the Payne-Aldrich tariff bill, proposed the following Constitutional amendment (*see* SIXTEENTH AMENDMENT):

Congress shall have power to lay and collect taxes on income from whatever source derived, without apportionment among the several states, and without regard to any census or enumeration.

This amendment was submitted to the state legislatures and February 4, 1913, was ratified by Wyoming and Delaware, making one more than the three-fourths necessary. The amendment was opposed, on the grounds: (1) that it was an unjustifiable extension of federal sovereignty, likely to conflict with state revenue incomes; (2) that it opened the way to taxation of interest in securities of state and local governments, and thus subjected these bodies to the power of oppressive federal taxation. An income tax had been advocated for the reason that it is a tax on ability; and, as Walker states it, "faculty is the true natural basis of taxation." Added to the theoretical attractiveness of this norm was its successful operation in Great Britain and Russia. On the other hand, it was urged that foreign experience is not a conclusive guide. Territorial and industrial conditions are so vast in the United States as compared with single European nations; the complications arising from state governments within the federal sovereignty, and the failure of past efforts all argued, it was urged, against the incorporation of an income tax into the revenue system.

Third Federal Tax (1913).—In 1912, however, the Democrats carried the Presidential election on a platform which pledged them to an immediate downward revision of the tariff, and shortly after the inauguration of President Wilson in 1913, Congress was convened in special session to carry out this pledge. The result was the Underwood Tariff Act (*see*) of October 3, 1913, which by sweeping reductions in the tariff schedules and important additions to the free list, lowered the average rate of duty on imports by about 25 per cent. To make up the loss of revenue, recourse was had to the power granted to Congress by the Sixteenth Amendment (*see*), which had just been proclaimed on February 25. The Underwood Tariff Act imposed on every citizen of the United States, and every person residing in the United States, a personal income tax on his entire net income in excess of \$3,000. Income from property or business in the United States is also subject to the personal income tax. Besides the specific exemption of \$3,000, there is an additional exemption of \$1,000 for a married man whose

wife lives with him or for a married woman whose husband lives with her. In calculating taxable incomes various deductions are permitted, the most important of which are: (1) expenses of carrying on any business; (2) interest paid on a person's indebtedness; (3) all state and local taxes; (4) losses not compensated by insurance; (5) uncollectable debts charged off; (6) a reasonable allowance for depreciation; (7) dividends of corporations paying the one per cent tax on corporations; (8) income upon which the tax has been collected at the source; (9) interest received from public securities and salaries of state and local officials.

The rate of one per cent on taxable incomes up to \$20,000 is known as the "normal tax." Incomes exceeding \$20,000 are subject to an additional tax, or surtax, as follows:

	Per Cent
\$20,000 to \$50,000 -----	1
50,000 to 75,000 -----	2
75,000 to 100,000 -----	3
100,000 to 250,000 -----	4
250,000 to 500,000 -----	5
Over 500,000 -----	6

It should be noted that these higher rates do not apply to total income, but only to the fraction in excess of the amount which calls for the higher rate.

In calculating net income subject to the surtax, all profits of companies earned but not distributed are included. Personal returns are required of all individuals having an income of over \$3,000, unless the entire income is taxed at the source. Individuals subject to the additional tax, however, must report total income from all sources.

Collection at the Source.—The collection-at-the-source method of administration is one of the most important features of the law. All persons or corporations paying to other persons income in the form of rent, interest, wages, etc., in excess of \$3,000 must deduct the one per cent tax and pay it over to the collector of internal revenue, reporting at the same time the name and address of the person for whom the return is made. Persons or corporations engaged in the business of collecting interest or dividends on foreign obligations not payable in the United States must obtain a license from the collector of internal revenue and be subject to regulations enabling him to verify the proper payment of taxes on such foreign securities.

American income taxes, as noted above, have heretofore made little use of the collection-at-the-source method. The Civil War federal tax and state income taxes have, almost without exception, depended on the so-called "self-assessment" method. In England, however, stoppage at the source has long been employed with success. Conditions in the United States are peculiarly favorable to the use of this method the business of the country being so largely in the hands of corporations and for-

ign investments so relatively unimportant. The objection that collection at the source would tend to deprive the taxpayer of the benefit of exemptions and deductions is met in the present law by providing for the filing of claims for exemption, either with the collector of internal revenue, or with the person or corporation required to withhold the tax.

See SIXTEENTH AMENDMENT; TAX, PERSONAL PROPERTY; TAXES, DIRECT; TAXATION, SUBJECTS OF; UNDERWOOD TARIFF.

References: D. O. Kinsman, "The Income Tax in the Commonwealth of the U. S." in *Am. Econ. Assoc., Publications*, 3d Series, IV (1903), 553-686; E. R. A. Seligman, *Income Tax* (1914), 367-673, 687-691; T. S. Adams, "Wisconsin Income Tax" in *Am. Econ. Rev.*, I (1911), 906; *ibid*, II (1912), 194; H. R. Searger, *Introduction to Economics* (3d ed., 1905), 572-576; F. Walker, *Pol. Econ.* (3d ed., 1888), 495-496; H. C. Adams, *Finance* (1898), 356-360; Library of Congress, *List of Works Relating to Taxation, Inheritances and Incomes* (1907); E. M. Phelps, *Selected Articles on the Income Tax with Special Reference to Graduation and Exemption* (1909); J. A. Hill, "Civil War Income Tax" in *Quart. Journ. Econ.*, VIII (1894), 416-459, 491-498; *Am. Year Book 1910*, 327, and year by year.

DAVIS R. DEWEY.

TAX, INCOME, GRADUATED. Many of the favorers of an income tax wish to make it a deterrent to the accumulation of large fortunes and hence provide that as the income increases, the proportionate rate of taxation increases still more, till in some cases there is a confiscatory rate on all incomes above a fixed figure. In most systems of income tax, in all that have ever been adopted in the United States, either federal or state, there is an exemption of a few hundred dollars, sometimes of several thousand dollars; so that the principle of graduation is indirectly applied. See ASSESSMENT OF TAXES; TAX, INCOME; TAXES, INDIRECT. **References:** R. Foster and E. V. Abbott, *Income Tax Law of 1894* (1895), chs. iv, v; Irving Fisher, *Nature of Capital and Income* (1906), 400-403; E. R. A. Seligman, *Essays on Taxation* (2d ed., 1897).
A. B. H.

TAX, INHERITANCE. **Definition.**—The term inheritance tax as used in the United States broadly includes all duties imposed upon the transfer of property at the death of the owner, whether by will or without. It is indiscriminately applied to what are known in Europe as death, legacy and succession, and probate duties. Such taxes have been imposed both by the Federal Government and by many of the states. Federal legislation is considered first.

Federal Taxes, 1797-1902.—The Stamp Act of July 6, 1797, imitating recent legislation in

England, which was in turn borrowed from Holland, placed a tax upon legacies and shares of personal estates in excess of fifty dollars. The rates were low, and exemptions were made in favor of the nearest kin. The tax was repealed July 1, 1802.

A second trial of such duties was made during the Civil War by the act of July 1, 1862. This imposed a legacy tax on the devolution of personal property: and stamp duties on probates of wills and letters of administration. The legacy duties were graduated from three-fourths of one per cent to five per cent, according to the degree of relationship. The duties were slightly increased in 1864 (June 30), and to them was added a succession tax on real estate. These duties were not strictly enforced, the yield in 1865 being only \$547,000. In 1870, the taxes were repealed. The total receipts for the entire period of operation (1862-1871) were less than \$15,000,000, amounting in no single year to two per cent of the internal revenue duties. The income tax law of 1894, which was declared unconstitutional, included as income property acquired by gifts or by inheritance.

The Spanish War Revenue Act of 1898 imposed duties on legacies and distributive shares of personal property. The rates on amounts between \$10,000 and \$25,000 ranged from three-fourths of one per cent to five per cent, and for larger amounts increased by a highly progressive graduated scale, until for an individual share of more than a million dollars the rate was fifteen per cent. These duties were repealed in 1902. The total yield during the short period of levy was \$22,500,000, two-thirds of which was paid by relatives who were taxed at the lowest rate.

State Taxes.—Pennsylvania, in 1826, imposed a tax on collateral inheritances, which was increased in 1849 to five per cent, at which rate it permanently remained. At least five states—Louisiana, 1828; Virginia, 1844; Maryland, 1845; North Carolina, 1847; and Alabama, 1848—introduced some form of an inheritance tax before the Civil War. Not all of them, however, permanently retained this form of taxation. In 1892 this tax was levied in nine states—Connecticut, Massachusetts, New York, New Jersey, Delaware, Pennsylvania, Maryland, West Virginia, and Tennessee. Shortly after this date such taxes found increasing favor until in 1914 there are few states without such duties.

According to an exhaustive study made in 1908, inheritances were taxed in thirty-six states; twenty states imposed both direct and collateral duties, and thirteen states had a progressive scale of rates. In most of the states the maximum rate for collaterals is five per cent, the marked exceptions being California, Idaho, North Carolina, and Wisconsin, where rates run up to fifteen per cent. In Texas and Washington they reach twelve per

cent. The rates on direct inheritances range from one-half to five per cent, the latter being found in Minnesota and Utah. In New York the basis of assessment is the amount received by each beneficiary, rather than the estate itself. The tax also extends to non-resident beneficiaries who might be taxed in their own states for the inheritance or legacy received, thus resulting in double taxation. The rates are also highly progressive; for beneficiaries outside of certain degrees of relationship rates run as high as 25 per cent for inheritances in excess of \$1,000,000.

Nor is there any uniformity as to exemption: for collaterals, the amounts ranging from no exemption in several states to \$25,000 in North Dakota; and for direct inheritances to \$20,000 in Illinois and West Virginia.

Discussion.—There has been much discussion as to whether inheritance taxes should be retained exclusively by the states or whether the tax more properly belongs to the Federal Government. Such controversy was stimulated by the declaration of President Roosevelt, in 1906, that "fortunes swollen beyond all healthy limits" should be controlled through inheritance taxes, and that this instrument of special control could effectively be applied only through the federal authority. This view, however, has not met with general acceptance, it being argued that regulation of individual wealth: (1) does not remove the causes; (2) punishes the just with the unjust; (3) and would be difficult to enforce. To be punitive, rates would have to be greatly increased; and this would lead to evasion and the breaking down of the administrative machinery.

Constitutionality.—The incorporation of inheritance taxes into the revenue systems of the several states has met prolonged opposition, based on arguments that such legislation was unconstitutional. In particular it was declared to controvert the requirement that all taxes on property be uniform, as found in many state constitutions. As a rule, however, the courts have decided that an inheritance tax is not a tax upon property, but a tax upon the succession or devolution of property—in other words a tax upon a privilege; in accordance with this principle the United States Supreme Court has even held that government bonds are subject to inheritance taxes imposed by a state.

As to the legality of progressive rates and provisions for exemption, there has been greater difference of opinion on the part of the courts. In Ohio a graduated scale has been declared unconstitutional, while in Illinois the decision was favorable.

A serious administrative difficulty is that of determining the domicile of the property, particularly personal property, which is concerned in the inheritance or succession. Is the inheritance to be taxed at the residence of the decedent or at the situs of the property? Dr.

Max West, who has made a most exhaustive study of inheritance taxes, concludes that, while real estate is taxed only where it is situated, personal property may be included in inheritance-tax appraisals, either where it is situated or at the domicile of the decedent, or even in both places; while corporation stocks may be reached also at the corporation's home office. This means double taxation, with the possibility of triple taxation.

See TAX, PERSONAL PROPERTY; TAXATION, DOUBLE; TAXATION, SUBJECTS OF.

References: Max West, *Inheritance Tax* (2d ed., 1909), "State and Local Taxation" in *International Tax Assoc., Addresses and Proceedings* (annual since 1907); Knowlton *vs.* Moore, 178 U. S. 41; S. S. Huebner, "Inheritance Tax in Am. Commonwealth" in *Quart. Journ. Econ.*, XVIII (1904), 529-550; H. A. Millis, "Inheritance Tax in Am. Commonwealth," in *ibid.*, XIX (1905), 288-308.

DAVIS R. DEWEY.

TAX, LAND AND REAL ESTATE. Importance.—Owing to the widespread evasion of the personal property tax, the taxes on real estate assume special importance, and constitute by far the largest part of the general property taxes in American cities. In 1908, the valuation of the real property in cities of 30,000 population or over was \$19,077 millions, with \$3,098 millions of personalty.

When the population is congested, the value of land becomes high and the tax on land constitutes a large proportion of the assessment. In New York City a little over one-half of the total real estate valuation is on land alone. The assessed value of six square miles on Manhattan Island nearest Central Park is greater than that of all the real estate in some states, as, for example, Missouri.

Improvements.—A distinction is to be made between the taxation of the land and of the permanent improvements upon the land, like drainage, fencing, buildings. Taxation of the former only is advocated by supporters of the single-tax principle, on the ground that land is a natural monopoly, whose value is determined by social rather than individual effort. In western Canada there is a noticeable tendency to lower the rate of taxation on improvements; in British Columbia, the maximum assessment of improvements is limited to 50 per cent; and in Alberta improvements are exempt.

Distinct from Personal.—The distinction between "real" and "personal" estate is not always clear, and for purposes of taxation rests upon legal definition; for example, slaves used to be considered real estate in some states; engines, water wheels and shafting may be classified as real estate; machines, such as looms and lathes, are personal property. In Wisconsin the rolling stock of railroads is regarded as real estate. In New York special

franchises or the right to use the public streets are also held to be real estate; in Massachusetts and California mortgages on real estate are regarded as realty. In New York the real estate valuation includes telegraph lines, wires, poles and appurtenances, and all surface, underground, or elevated railroads, while in Ohio the personal property valuation includes the roadbed, water and wood stations, and such other realty as is necessary for the daily operation of railroads. Comparisons of assessments of different states must, therefore, be used with caution.

See ASSESSMENT OF TAXES; TAX, PERSONAL PROPERTY; TAXATION, MORTGAGE; TAXATION, SUBJECTS OF.

References: C. C. Plehn, *Introd. to Public Finance* (3d ed., 1909), 295, 299; C. F. Bastable, *Public Finance* (2d ed., 1895), 395, 412; C. B. Fillebrown, *A B C of Taxation* (1909); E. R. A. Seligman, *Essays in Taxation* (2d ed., 1897).

DAVIS R. DEWEY.

TAX, OLEOMARGARINE. See OLEOMARGARINE TAX.

TAX ON INSURANCE COMPANIES. See INSURANCE COMPANIES, TAX ON.

TAX, POLL. See POLL TAX.

TAX, PROPERTY, GENERAL. This "may be defined as a tax in which the base is the entire amount of the property, real and personal, owned by the tax-payer" (Plehn). As used by the Bureau of the Census in its analysis of revenue of cities the term refers to direct taxes upon property or upon persons, natural or corporate, in proportion to their property. Broadly used, the tax may include the franchise of a corporation. It may be collected under a general or a specific levy, the latter being limited to certain classes of property, or to a restricted territorial district.

This tax provides by far the largest amount of local revenue in the United States. In 1908 the receipts from this source, in cities having a population of 30,000 or over, amounted to \$377,000,000 out of total receipts from general revenue of \$480,000,000. In all but four states, Delaware, New Jersey, Pennsylvania and Wisconsin, this tax also provides revenue for general state purposes.

As the states, however, are relying more and more upon taxes on corporations and inheritances, the general property tax plays a less important part in state revenue. It has rarely been employed by the Federal Government, and if so levied must be apportioned, in accordance with the Constitution, as a direct tax among the several states according to population (*see* TAXES, DIRECT).

When industrial society was more simply organized, the general property tax could be successfully levied and collected. Under modern

conditions it is open to many objections. It is difficult to secure the assessment of personal property, and there are in many states gross undervaluations of real property. Influenced, however, by historical tradition, there is a deep-rooted and widespread prejudice in favor of the tax which has thus far withstood efforts of tax-reformers to substitute other agencies for local revenue.

See ASSESSMENT OF TAXES; TAX, PERSONAL PROPERTY.

References: C. C. Plehn, *Introduction to Public Finance* (3d ed., 1909), 246-310; E. R. A. Seligman, *Essays in Taxation* (2d ed., 1897), ch. ii; U. S. Census Bureau, *Statistics of Cities Having a Population of over 30,000* (1908); R. T. Ely, *Taxation in American States and Cities* (1888); C. J. Bullock, *Selected Readings in Public Finance* (1906), 202-253; *Am. Year Book*, 1910, 331.

DAVIS R. DEWEY.

TAX, PROPERTY, PERSONAL. The term "personal property" is applied to household goods, mercantile and manufacturers' wares, tools, machinery, livestock, evidence of ownership in corporate property, such as stocks, bonds, mortgages, notes, negotiable instruments, copyrights, patents, book credits and money, in short, to all property other than land and real estate. It includes, therefore, visible property and intangibles. Personal property taxes are to be distinguished from personal taxes, which include the poll tax and the income tax.

In the earlier stage of revenue development, practically all property was visible and could easily be assessed to the owner. With the growth of corporate enterprise owned by shareholders living elsewhere than at the situs of the business, and often in another political jurisdiction, it became impossible to assess the owners if they did not voluntarily make returns. Evasion has been justified on the ground that the physical property of the corporation is taxed at its situs; and that to tax the evidence of ownership constitutes double taxation (*see* TAXATION, DOUBLE). To counteract evasion some states have adopted the system of taxing the stock at the home of a corporation and then distributing it to the towns wherein the stockholders live. Various attempts have been made to secure a more complete assessment of personal property, but punitive measures have been of little avail (*see* TAXES, DOOMING OF). As property is locally assessed, tax-payers in many instances have chosen legal residence in a town where the rate was low, or favorable arrangements could be made with assessors in order to secure a low valuation (*see* TAX DOOMING).

Because of the failure to reach personal property several methods of reform have been proposed, among which may be noted: centralization of administration, particularly in assessment; abandonment of effort to secure

complete assessment, by permitting exemption; the substitution of a system whereby certain forms of personal property shall be taxed at rates sufficiently low to disarm opposition, thus securing more complete returns. The adoption of the last method, however, is barred in many states by the constitutional requirement that taxes shall be uniform on all kinds of property. The principle of classification of property is recognized in Pennsylvania where the flat rate levied upon credits, stock, bonds, moneys, mortgages and promissory notes is 4 mills per \$1.00; in Maryland 4.6 mills. Other substitutes for personal property tax are business or rental taxes, as developed in Canada.

As illustrating the small part which the personal property tax plays in the revenue system of American cities, the summary prepared by the Bureau of the Census for cities of 30,000 population and over, for the year 1908, may be cited; the assessed valuation of personal property was \$3,098,000,000, as compared with \$19,077,000,000 of real property.

See ASSESSMENT OF TAXES; TAX, LAND AND REAL ESTATE: and under TAX.

References: D. A. Wells, *Theory and Practice of Taxation* (1900), ch. xix; C. J. Bullock, "The Taxation of Intangible Property" in *Int. Tax Association, Proceedings* (1909), 127-137; T. N. Carver, "Ohio Tax Inquisitor Law" in *Economic Studies*, III (1898), No. 3; E. R. A. Seligman, *Essays in Taxation* (2d ed., 1897), 24-61.

DAVIS R. DEWEY.

TAX, ROAD. See ROAD TAX.

TAX, SINGLE. A proposed plan of placing all taxes save those levied for restrictive or regulative purposes, upon the unimproved value of land—i. e., the whole value of land less the appraised value of improvements upon it. The single tax on land was first proposed by the French economists, or physiocrats, in the second half of the eighteenth century. According to the physiocratic theory of distribution, land is the only factor of production which yields a net return above subsistence or maintenance. It follows from this theory that taxes on labor and capital, business and commodities, must inevitably be shifted to the land, with much incidental hardship to individuals and disturbance of industry. Accordingly, all taxes should be levied directly upon the land.

When the classical economic theory of Adam Smith and his school supplanted that of the physiocrats, the single tax plan practically disappeared from view. It again became the subject of general interest upon the publication, in 1879, of Henry George's *Progress and Poverty*. Working in complete ignorance of the earlier physiocratic doctrine, Henry George propounded a similar plan of taxation. On the basis of the classical economics, George reasoned that the tendency of progress is toward a constant

reduction in wages and interest and a corresponding rise in rents. Since rent is a form of income produced by society itself, George argued that natural justice required its appropriation to general social uses instead of its monopolization by private individuals. To tax the products of labor, on the other hand, he held to be inherently unjust, on the ground that each person has a natural right to the whole product he creates.

Considerations of social utility were also employed by Henry George and his followers in their defence of the single tax. The abolition of taxes upon labor and its products would increase wages and the profits of capital, thus stimulating industry and encouraging accumulation. Land values would practically disappear; hence no man would care to hold more land than he could properly exploit, and the areas now held for speculative purposes would be thrown open to labor, with resultant increase in production and rise in wages. The crises that have in the past attended periods of general land speculation would no longer be possible.

The doctrines of Henry George soon gained a wide popularity, both in America and in England. In Germany they were received with favor by the radical land reformers, and contributed to the introduction of increment taxes. In Australasia the single tax movement has been not without practical effect. In New Zealand, under the act of 1897, land taxes are levied upon the unimproved value alone. By an act of 1896 local bodies are given an option of levying all taxes upon the unimproved value of land; and the plan is now in force in a large number of districts. In New South Wales the municipalities have a similar option, and avail themselves of it in many cases. These taxes are comparatively light, in only a few cases amounting to as much as 2 per cent of the capital value of the land.

The single tax doctrine has found few adherents among professional economists. The position that progress means a decline in wages and interest is untenable in view of the almost universal rise in wages in the last century and the vast increase in the aggregate returns to capital. The doctrine that an income accruing in consequence of social causes can not rightfully be appropriated by private individuals rests upon the obsolete "natural rights" philosophy, as does also the doctrine that the state can not rightfully tax the products of labor. More serious are the ethical criticisms of the single tax. Granting that it would be justifiable to appropriate to the state future increments in land value, to appropriate by taxation present land values would be unjustifiable confiscation. Land is an article of commerce recognized by law, and investments in land are entitled to the same protection as other investments. The injustice of the proposal is heightened by the fact that in many coun-

tries land is chiefly the investment of persons of moderate means. Some of these might secure adequate compensation through relief from other forms of taxation, but this could not be generally true. Fiscal objections to the tax are that it would yield an uncertain and inelastic revenue, and one that could with difficulty be properly distributed among the different governmental bodies. From the point of view of wealth production, the single tax would have various injurious effects, among them the discouragement of improvement in advance of immediate needs, and a tendency in agriculture toward soil robbing methods.

See RENT; TAX, PROPERTY, GENERAL; TAX, PROPERTY, PERSONAL; TAXATION, PRINCIPLES OF; UNEARNED INCREMENT; and under POLITICAL THEORIES.

References: H. George, *Progress and Poverty* (1879); T. S. Shearman, *Natural Taxation* (1898); C. B. Fillebrown, *The A B C of Taxation* (1909); E. R. A. Seligman, *Essays in Taxation* (2d ed., 1897), ch. iii.

ALVIN S. JOHNSON.

TAX, STAMP. See STAMP TAX.

TAX, TONNAGE. A tonnage tax is a duty on shipping. Such duties have been imposed since colonial times either for revenue or for protection to domestic industry. By the tonnage act of 1789 a tax of 6 cents a ton was imposed on American built and owned vessels, 30 cents upon vessels American built and foreign owned, and 50 cents upon foreign built and foreign owned shipping. Such discriminating duties have been abandoned (*see* COMMERCIAL POLICY AND RELATIONS, UNITED STATES), taxes now being imposed rather to secure proper police regulation than revenue. By the act of 1909 a duty of two cents a ton, not to exceed 10 cents in any one year, is imposed at each entry of vessels from any port in North and Central America, the adjacent islands belonging to the British Government, or the northern part of South America. A duty of 6 cents per ton, not to exceed 30 cents in any one year, is imposed on vessels from other foreign ports. There is also levied an annual tonnage tax upon foreign built vessels or yachts used for pleasure purposes, which now amounts to about \$1,000,000 per annum. See SHIPPING, REGULATION OF; SUBSIDIES TO SHIPPING. References: O. L. Elliott, *Tariff Controversy in the U. S.* (1892), 89-90; A. S. Bolles, *Financial Hist. of the U. S.* (1883), I. D. R. D.

TAXABLE PROPERTY, VALUATION OF. See ASSESSED VALUATIONS. COMPARATIVE; ASSESSMENT OF TAXES: ASSESSMENT, SPECIAL; TAXATION, CONSTITUTIONAL BASIS OF.

TAXATION, CONSTITUTIONAL BASIS OF. Taxation was originally based, undoubtedly, on the strong arm of the king and was

merely predatory. Very soon, however, he came to justify this by the necessity of protecting his subjects in war. The modern theory is, of course, quite different, that the state, no longer the king, administers many functions besides that of making war, and therefore collects the cost thereof from the people. The English constitution develops the principle that such taxes can exist but by common consent and for the general good; and the American Constitution goes farther and states it must be equal or proportional (Art. I, Sec. viii, ¶ 1, Sec. ix, ¶ 4, Amend. XVI).

The right to tax, even under the American Constitution, however, is probably limitless. Either state or federal government would probably have the constitutional right to take all a man's property or income and expend it generally among the public, or for their good, i. e., to enact absolute socialism; and under our system there may be double taxation, state or federal, or even double or triple taxation by the several states, as has happened in the case of succession taxes. Such laws are lamentable, and to be interpreted away so far as possible; but there appears to be no constitutional objection.

A taxpayer has his remedy for unconstitutional taxation, either by refusing to pay the tax and contesting the matter in the courts, or by paying the tax and suing the officer who receives the tax for the amount paid, on the ground that it was extorted by such individual under an unconstitutional law. Or when a corporation is concerned, as in the corporation tax cases, U. S. Supreme Court, March, 1911 (220 U. S. 107), a shareholder may bring a bill in equity against a corporation which is about to pay the tax, asking for injunction.

Owing to the fact that the Federal Constitution requires that there shall be no federal direct tax that is not apportioned per capita among the states (with the exception of the income tax), that is to say, that the state tax thus raised by each state must depend upon the number of its inhabitants and not on the value of its property, the distinction hitherto academical between direct and indirect taxes became of immense importance. Although in the earlier case (*Hylton vs. U. S.*, 3 Dallas 171) it was decided that a tax upon carriages was not a direct tax, it would seem to be pretty well settled now by the latest case, (*Pollock vs. Farmers' Loan & Trust Co.*, 157 U. S. 429) that a direct tax is a tax on the property or the income of the property, and is therefore, paid by the owner of the property, and presumably out of the property. It is not a tax upon the use of the property nor upon any other commodity connected therewith. The old distinction that a direct tax was one which could not be shifted upon others would today seem misleading.

But it is noteworthy that although we in America have got all the great principles of

English-American taxation, yet in England until the present proposed tax upon the unearned increment there was rarely any direct tax upon the land: although, indeed, we do find early "aids" of such much per "hide," the practice seems to have wholly disappeared, and the English land tax has always been imposed upon the rental value of the property, making it more in the nature of an income tax than a direct tax. Our constitutions, on the other hand, federal and state, usually provide that taxation shall be "equal" or "uniform," or in Massachusetts and New Hampshire "proportionate," and the courts have decided that this makes it necessary that the tax should be imposed equally upon land and personal property (*Gilman vs. Sheboygan City*, 2 Black 510).

Efforts are now being made to have various classifications made constitutional, "classification" being the phrase employed in modern America by any jurist who wishes to get around the clauses requiring "due process of law" and "equality before the law" in the state constitutions and the Fourteenth Amendment. For instance, in Massachusetts, there was proposed a law to make a large reduction of the tax upon intangible personal property to such persons as make a sworn return; in several states there is an exemption of agricultural products, or of growing trees, in the interest of forestry. The Supreme Court of the United States seems likely to hold that so far the Fourteenth Amendment is concerned there is no constitutional necessity of an equal and identical treatment. This, however, would presumably not be held by state supreme courts interpreting the constitutions of their own states.

See ASSESSMENT OF TAXES; CORPORATIONS. TAXES ON; FINANCIAL POWERS; REVENUE, PUBLIC, COLLECTION OF; TAXES, DIRECT.

Reference: F. J. Stimson, *Federal and State Constitutions* (1907), 85, 268-287.

FREDERICK J. STIMSON.

TAXATION, DOUBLE. This denotes the taxation of the same person or thing twice over. For example, a person may be taxed on his property and on the income from his property; or property against which there is debt obligation may be taxed as well as the creditor who has loaned the money. The most familiar case is that of taxes on land and also on mortgages secured by the land. References: E. R. A. Seligman, *Essays in Taxation* (1897), 95-120; F. Walker, *Double Taxation in the United States* (1895). D. R. D.

TAXATION, EXEMPTIONS FROM. Certain classes of property are in some jurisdictions exempted from taxation for one or the other of the following reasons:

(1) Political Units.—To protect the integrity of political sovereignty; for example, no

state can tax federal property or the instruments whereby the national Government carries on its operations. Treasury notes and government bonds are consequently exempt from state and local taxation. Under the same principle, state property is exempt from local taxation, and in some states, as in Massachusetts since 1908, municipal bonds are free from taxation.

(2) **Promotion of Social Welfare.**—Taxes are frequently remitted for the advancement of morality and education by churches and colleges; and in the care of the poor and unfortunate by charitable associations and hospitals. All the states and territories except Alaska are in agreement in exempting churches; one-third of the states exempt parsonages, and some exempt all property which is held for religious purposes. With few exceptions all of the states exempt property devoted to benevolent and charitable purposes; and, with the same object in view, all of the states except California exempt cemeteries. In some of the states there are additional special exemptions; for example, three of the states exempt the property of fraternal organizations; Michigan, the personal property of the Young Men's Christian Association; and Massachusetts, the property of temperance societies.

(3) **Personal.**—Some of the states exempt, up to certain sums, the property of widows and orphans, aged and infirm, deaf, dumb, and blind, soldiers and sailors of the United States, and unmarried women over twenty-one years of age. So too exemptions are made to lighten the burdens of the poor or even in favor of those of moderate means, as in exempting household furniture, tools or wearing apparel, or live stock on farms up to a certain number.

(4) **Educational.**—Exemptions are generally made in favor of school property, colleges, public libraries, literary and scientific institutions and societies, and, in some states, of the property of agricultural societies, and industrial expositions.

(5) **Economic.**—Frequently in the interest of economic development exemptions are made for limited periods in favor of new manufacturing establishments, irrigation projects, growing orchards and young forests. Again there are numerous exemptions allowed on the ground of fiscal expediency. Here are to be found exemptions to adjust inequalities in the operation of the revenue laws, or to prevent double taxation. Those exemptions are made in favor of growing crops, or of indebtedness and mortgages.

In 1910 the value of the real estate exempted from taxation, out of a total valuation of \$7,044,000,000, amounted to \$1,359,000,000, or over one-fifth. Of this, \$322,000,000 was credited to churches, hospitals, colleges, libraries, cemeteries, etc.

See ASSESSMENT OF TAXES; CHURCH AND STATE IN UNITED STATES; TAX, INCOME; TAX, INHERITANCE.

References: U. S. Census Bureau, *Revenue Systems of State and Local Government* (1907), 623-626; H. C. Adams, *Finance* (1898), 316-320. DAVIS R. DEWEY.

TAXATION, LIMITATIONS ON. Unwritten Limitations.—The fundamental doctrine of taxation is that the state in consideration of its protection of the individual, its protection of property, and its maintenance of a system of government, has a right to subtract whatever part of the property of the citizens or subjects of the state it may deem necessary. In practice this power is subject to several practical limitations. (1) An annual tax amounting to more than the annual product of a piece of productive property will eventually cause the abandonment of that property. Taxes approaching the annual product (whether rental or profit) will tend to prevent the accumulation of capital. Therefore any attempt to realize by unduly raising the rate of taxation will, beyond a certain point, cause a reduction in the proceeds. (2) People get accustomed to a certain rate of taxation as about the normal; thus, in Massachusetts, \$20 on each thousand is thought a high tax; and any rate above that will cause discontent and very likely overthrow the administration which is responsible.

Exclusions from Taxation.—Either because of the nature of government or from federal or state constitutional provisions, large areas of property are set aside as untaxable. Such is, first of all, public property—it being manifestly absurd and unproductive for a government to raise money by taxing itself; nor can the Federal Government tax state property, or vice versa; and municipal and local units of government are considered to be part of the government of the state within which they exist. In the District of Columbia (*see*) the Federal Government makes an annual appropriation equal in amount to the taxation laid upon the present property owners, but that is an act of grace. The property of educational, religious and philanthropic institutions is, in most states, outside the tax duplicate (*see* TAXATION, EXEMPTIONS FROM). Under the income tax system (*see* TAX, INCOME) it is usual to exempt small incomes; and sometimes small holdings of personal or real estate are exempted or specially favored in taxation.

Subjects of Taxation.—By the Federal Constitution neither the Federal Government nor the states can lay any export duty, though it is a common, and in many ways a useful form of taxation (Art. I, Sec. ix, ¶ 5). In addition the states can lay no import duties. Further the Federal Government, in laying direct taxes, must subdivide them in proportion to the population, and in 1894 the Supreme

Court held that a federal income tax was a direct tax: in 1912 a federal constitutional amendment was ratified removing the restriction so far as it applied to the income tax (*see SIXTEENTH AMENDMENT*). The Constitution limits taxation by the provision that duties, imposts and excises shall be uniform throughout the United States, and that there shall be no preferences to ports (Art. I, Sec. viii, ¶ 1, Sec. ix, ¶ 6). It has been held that uniformity does not mean that the subject of taxation must exist in every part of the country. Similar provisions can be found in the constitutions of many of the states.

Purposes.—Since taxation is based upon a public need, the Federal Constitution and many of the state constitutions contain clauses intended to assure the use of the proceeds of taxes for public purposes. In the Federal Constitution, after the clause granting the taxing power comes the phrase, “to pay the debts; and provide for the common defense and general welfare of the United States” (Art. I, Sec. viii, ¶ 1). By many constitutional authorities this is considered a limitation on the taxing power; others have treated it as an independent power; others have held that it was an additional, or a broader, definition of the power of appropriating money.

Amount of Taxation.—There is no limitation upon the total or proportional taxes levied by the United States; and in general any tax which Congress deems necessary may be laid, at least for a purpose set forth in the Constitution outside the taxation clause. In times of stress the Federal Government has always been slow to increase taxes, and has provided for immediate necessities by loans—for which, in most cases, interest must be provided and eventually the principal be paid through future taxation. Some states under their constitutions are limited in annual taxes to a fixed proportion of the valuation; and cities and other forms of local government are frequently restricted in the tax rate which they may impose for their own purposes. Particular taxes are sometimes earmarked, their proceeds to go for a particular purpose; and in many of the western states there is a fixed rate of taxation for the support of public schools, or public higher institutions of learning, or both, so that the amount realized increases with the property within the state.

Methods. State constitutions and statutes abound in limitations upon the assessment and collection of taxes; and under the Fourteenth Amendment to the Constitution the states are forbidden to deprive any person of property without due process of law; under which clause many suits have been brought. The purpose of this restriction is in general to secure reasonable equality in the assessment and collection of taxes, and a reasonable assurance that the proceeds shall be devoted to the public use. No limitation can prevent inequalities:

some taxes (as, for example, the graduated income tax, *see*) are intended to bear harder on one property owner than upon another.

See ASSESSMENT OF TAXES; ASSESSMENT, SPECIAL; REVENUE, PUBLIC, COLLECTION OF; and under TAX, TAXES, TAXATION.

References: J. M. Cooley, *Constitutional Limitations* (1890); F. J. Stimson, *Law of the Federal and State Constitutions* (1908), Bk. III, §§ 330–350; E. R. A. Seligman, *Essays in Taxation* (6th ed., 1910), *Shifting and Incidents of Taxation* (3d ed., 1909); N. Y. State Library, *Index of Legislation* (annual).

ALBERT BUSHNELL HART.

TAXATION, MORTGAGE. **Basis.**—In accordance with the principle that all personal property should be taxed, mortgages have been included with notes, book-credits, and other forms of intangibles as a fit subject of taxation. As the real estate which is mortgaged is taxed, the result is double taxation. When mortgages are recorded, as they uniformly are, this species of intangibles cannot be so easily secreted as can many other forms of personal property.

Holders of mortgages, therefore, who successfully avoided the listing of other intangibles, have endeavored to secure the passage of laws exempting mortgages from taxation. It was argued that the borrower or mortgagor really paid the tax; for the lender in fixing the rate of interest counted in the tax, inasmuch as he had the option of investment in property upon which he could avoid taxation. On the other hand the borrower objected to paying a tax on property which was encumbered and in which he held eventually only a partial ownership.

On the general question there are thus three points of view: (1) all property in accordance with the general principle should be taxed; (2) the lender, or mortgagee, should be exempt; (3) the borrower, or mortgagor, should be exempt from land taxes by as much as the sum named in the mortgage. Over these several issues there has probably been more discussion than over any other question of local taxation in the United States.

Avoidance.—When mortgages are taxed, dishonorable practices have often been resorted to in order to avoid taxation. For example: (1) a loan may be made in the name of a non-resident friend, protected by a perpetual power of attorney in respect to the mortgage; (2) the lender may receive from the mortgagor a deed for the premises and then present a quit claim in escrow to be delivered upon payment of the note; (3) a corporation may be organized under the laws of another state which then makes out the mortgage. In general the only class of mortgages which the assessor can hope to reach are those secured by property within the state and owned by taxable residents of the state.

Exemption Law.—In Massachusetts mortgages were made exempt in 1881. Mortgagors and mortgagees are for the purposes of taxation deemed to be joint owners, and the assessor is obliged to assess upon the land the amount of the mortgagee's interest and also the amount of the mortgagor's interest after deducting the assessed value of the mortgagee's interest. Loans on mortgages thus taxable are not to be included in debts due to the person to be taxed. This law does not interfere with or control the relation existing by special contract between the mortgagor and mortgagee. The parties can therefore arrange between themselves as to who shall pay the tax. Virtually this is an exemption of mortgages for practically all mortgages now contain a covenant whereby the mortgagor assumes the tax on the mortgagee's interest. In California the amount of the mortgage is deducted from the assessed value of the real estate, and either the owner of the real estate or of the mortgage pays the tax. In such instances the mortgagor finally pays the whole tax, for the mortgagee increases the rate of interest to cover the tax. In Maryland the holder of a mortgage is required to pay an annual tax of eight per cent on the gross amount of interest paid by the mortgagor: one-fourth of this goes to the state, and the balance to the state or city. In Pennsylvania mortgages are taxed four mills on the dollar, the proceeds being divided between the state and counties.

A marked point in remedial legislation is whether the parties to the mortgage be permitted to enter into a contract concerning the payment of the taxes. In Massachusetts, Connecticut, New Jersey, Wisconsin and California this is done. As the mortgagor generally pays the tax, it is assumed that the rate of interest will be lowered as the mortgagee is relieved. In a few states contracts are not permitted, and each pays a tax, the mortgagor, however, being relieved of that value of the real estate represented by the debt.

Recording Tax.—Within recent years a few states, in order to reduce evasion of the tax on mortgages, have adopted a tax on the recording of the instrument. In 1905 New York imposed a lump recording tax of 50 cents upon each \$100. As a result, the mortgage interest rate declined about one-half of one per cent. In Minnesota, similar action in 1907 reduced the interest rate by nearly one-half of one per cent in cities, and by two per cent in small towns.

See TAXATION, DOUBLE; TAXATION, EXEMPTIONS FROM: TAX, LAND AND REAL ESTATE; TAX, PERSONAL PROPERTY.

References: R. A. Campbell, "Mortgage Taxation" in Wisconsin Library Commission, *Bulletin* No. 17 (Dec., 1908), laws and judicial decisions; "Mortgage Taxation" in National Civic Federation, Taxation Dept., *Bulletin* No. 1 (Nov., 1902), New York conditions; F. N.

Judson, "Mortgage Taxation in Missouri" in *Quart. Journ. Econ.*, XV (1901), 287; F. A. Fetter, "Change in Mortgage Taxation in New York" in *ibid.*, XX (1906), 613; T. S. Adams, "Mortgage Taxation in Wisconsin" in *ibid.*, XXII (1908), 1; J. H. Hollander, "Taxation of Intangibles in Maryland" in *ibid.*, XXII (1908), 196-209.

DAVIS R. DEWEY.

TAXATION OF EXPORTS. The Constitution of the United States declares that no tax or duty shall be laid on articles exported from any state (Art. I, Sec. ix, ¶ 5). This is a prohibition directed to the Federal Government. The Constitution also says that no states shall without the consent of Congress lay any imposts or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the net produce of all duties and imposts laid by any state on imports or exports shall be for the use of the treasury of the United States, and all such laws shall be subject to the revision and control of Congress (Art. I, Sec. x, ¶ 2). The exports intended to be exempt from taxation are exportations to foreign countries. It was held in the case of *Dooley vs. U. S.* (183 U. S. 151) that the prohibition of congressional taxation does not apply to goods passing between the United States and Porto Rico. A tax upon property is not a tax upon exports even though the goods so taxed are afterwards actually exported. The clause in question is intended to prohibit laying a tax on the business of exporting or upon goods because they are intended to be exported. In the case of *Fairbank vs. U. S.* (181 U. S. 283), it was held that a tax imposed upon bills of lading for goods exported from the United States was to all intents and purposes a tax upon exports. **References:** J. P. Hall, *Constitutional Law* (1911), 280-281; *Turner vs. Maryland*, 107 U. S. 38.

A. C. McL.

TAXATION OF RAILROADS. **Assessment.**—During the earlier period of railroad operation, railways were brought under the general property tax and subject only to local assessment. The system was unsatisfactory, for not only was there great inequality in the assessment of real estate in the towns through which the railroad ran: but in restricting taxation to physical property there was considerable value not reached. Special taxes, therefore, were imposed, such as a tax on mileage, on capital stock, on stocks and bonds, net earnings, gross earnings, equipment and the franchise. Although the property tax principle has generally been retained, the valuation has been often entrusted to a state board. An example of this may be found in Michigan, where the inventory, or "Cooley-Adams" method is in operation: a state board makes a complete inventory by engineering experts of all the physical elements of the road, showing the cost

of reproduction and present value. A physical appraisal has also been made in Wisconsin and other states.

Ad Valorem and Specific.—In general, the taxes imposed on railroads fall into two main classes: (1) an ad valorem tax; (2) a specific tax. The first may be levied on the value of the real and personal property; or on the value of stocks or bonds; or on the valuation based on earnings, dividends, or other results of operation. The specific tax may be levied on securities; or on net earnings; or on traffic; or some physical property operated; or on privilege. Specific taxes are especially characteristic of the revenue systems of Maine, Vermont, Delaware, Pennsylvania, Maryland, Virginia, Illinois, Wisconsin, and Minnesota.

The most common method is through the ad valorem tax, that is, a tax based on the value of the real and personal property. In the fiscal year ending June 30, 1906, the total taxes upon all the railroads of the country amounted to \$74,602,000. Of this, \$62,809,000 came from the ad valorem or property tax.

In the assessment of the real and personal property, under an ad valorem tax, the work is generally performed by the state and sometimes by towns or cities. In Wisconsin and Minnesota the whole tax is retained by the state, but in most of the others it is distributed according to a mileage basis. In Massachusetts, Connecticut and Pennsylvania the property valuation is based upon stock or bonds. In Massachusetts, for example, there is a local tax on physical property, and also a tax on the corporate excess, that is, the value of the stock less the real estate.

Gross Receipts.—Minnesota is a notable example of taxation of gross receipts by a specific tax of four per cent. The special merit claimed in behalf of this system is its simplicity, as compared with the difficulty of obtaining actual valuation through assessment. An objection, however, is that railway receipts are not a true index of a railway's earning power, or its real value.

Terminals.—The question of distributing the tax on terminal property has been the subject of much contention and litigation in states where the tax is locally retained, for it is urged that outlying sections ought also to enjoy a part of the revenue thus collected.

See CORPORATIONS, TAXES ON; FRANCHISE TAX; RAILROAD CAPITALIZATION; TRANSPORTATION, REGULATION OF.

References: Interstate Commerce Commission, *Annual Report*, 1906; J. E. Brindley, *History of Taxation in Iowa* (1911), II, 141-168; U. S. Bureau of Corporations, *Taxation of Corporations* (1909-1911), Pts. III; G. E. Snider, "Taxation of the Gross Receipts of Railways in Wisconsin" in *Am. Econ. Assoc. Publications*, Third Series, VII, No. 4 (1906); *Am. Year Book*, 1910, and year by year.

DAVIS R. DEWEY.

TAXATION OF RAW MATERIALS. In the framing of a tariff with protective aims and with recognition of all classes of industry there is necessarily a conflict of interest between the producer of raw materials and the manufacturer of finished products. The farmer and the miner are subject to competition as well as the manufacturer. Possibly the volume of competition is not so severe with the former since crops of the soil and minerals are bulky in volume, thus giving a natural protection through the expense of transportation. However, farmers established along the northern frontier are open to competition from the Canadians, who have substantially the same railway facilities. With all the natural advantages which the United States enjoys, it is not always able to produce raw material as cheaply as other parts of the world.

The contest over the taxation of raw materials through import duties, arose in the first tariff debate of 1789. Hemp growers of the West demanded protection, but on the other hand there was general agreement in favor of a duty on cordage (made from hemp) in order to favor ship-building for which cordage was a raw material. As a result, rope makers received a higher duty than was at first proposed; but such adjustments work out to unexpected results. There are different kinds of hemp, and for the finer grades of rope water-rotted hemp only was serviceable. This, on account of the large amount of manual labor required for its manufacture, was not produced in this country; the result was that certain qualities of rope were increased in price without a compensating advantage to any producer in the United States.

The foregoing example is typical of many other conflicts, the most notable of which came into view in the tariff debate of 1824 over wool and woolsens, and has remained an unsolvable puzzle until the present time. Secretary Walker who framed the tariff of 1846, favored taxation on imported raw materials in the interest of the farmer. Mills, leader of the Democrats in the House, in 1888, desirous of lowering the tariff, yet fearing to disturb too seriously existing manufactures, advocated the placing of raw materials on the free list, and so did President Cleveland and Representative Wilson in 1894. Tariff reform, indeed, has concentrated its effort in recent years upon securing exemption from taxation of raw materials necessary for manufactures. The Republican party, on the other hand, has, notwithstanding the load placed upon manufacturing industries by the taxation of raw material, accepted the burden, for it has clearly recognized that the support of the farmers alongside the manufacturers was essential if protectionism were to hold its own in the making of tariffs. The Democrats, in the Underwood tariff of 1913,

placed many raw materials on the free list. As a question of economic policy, little defense can be made in behalf of the taxation of raw materials. The production of wool, sugar, hemp, hides, and lumber is dependent upon natural advantages. The soil is capable of other products and the transfer from one agricultural pursuit to another can be made with no great loss of invested capital or unsettlement of labor. An exception should possibly be made in the case of sugar. The sugar plantations of Louisiana are especially adapted to that particular crop; and, accompanying the

production of beet sugar in the West, factories have been established which represent a considerable amount of invested capital.

See AGRICULTURE, RELATIONS OF GOVERNMENT TO; TARIFF LEGISLATION, FRAMING OF; TARIFF POLICY OF THE UNITED STATES; TARIFF REFORM; TARIFF RATES; TAXATION OF RAW MATERIALS.

References: F. W. Taussig, *Tariff History of the U. S.* (5th ed., 1910), 382-384; E. Stanwood, *American Tariff Controversies* (1903), II, 97-110, 232-236, 343-357.

DAVIS R. DEWEY.

TAXATION, PRINCIPLES OF

Definition.—A tax is a compulsory payment exacted by a government from persons subject to its authority for the purpose of defraying the expenses incurred in the general interest. A tax is distinguished from such sources of public revenue as receipts from the public domain or profits from public industries by the fact that the former is compulsory in its nature while the latter are contractual. A tax is distinguished from such sources of revenue as fees and special assessments in that the former is levied to meet the general expenses of government, while the latter are assigned to some service supposed to confer special benefit upon the persons from whom the payments are exacted. Under modern conditions taxation is the chief source of public revenue, and tends constantly to increase in relative importance, although in the public ownership movement there may perhaps be discerned the germ of a counter-tendency.

Classification.—Taxes may be levied: (1) directly upon persons, like poll taxes, class taxes, income taxes; (2) upon property, like the general property tax of the American commonwealths, the land tax of Prussia; (3) upon business enterprises, like the license taxes of some of the southern states; (4) upon acts of exchange, such as the transfer of real estate or of credits; (5) upon the production and sale of commodities (excises); (6) upon the importation, or exportation of commodities (customs duties). In the individual instance, it is often difficult to say in what class a tax falls. According to the manner in which it is levied, a tax on houses may be either a special property tax or a crude form of income tax. In a commercial community a general system of business taxes may be, in effect, an income tax.

Taxes may be classified as fiscal or regulative according to the primary purpose for which they are levied. Taxes upon alcoholic liquors are commonly imposed partly, at least, for the sake of discouraging their use. Customs duties, in a majority of instances, are

intended to restrict foreign competition in the domestic market. The tax upon the importation of tea in Great Britain, and the tax upon the manufacture of tobacco in the United States, are levied solely for the purpose of raising a revenue.

The classification of taxes as direct and indirect is the one most commonly employed. Direct taxes (*see*) are those which are expected to rest finally on the persons who pay them in the first instance, as does the general property tax; indirect taxes are those which are expected to shift from the payer to other persons, as do customs or excise duties. The classification is not satisfactory from an economic point of view, because of its implication of a certainty in the principles of shifting and incident of taxation which is belied by the facts. It has nevertheless played an important part in practical legislation. Thus the United States Government is restricted to indirect taxation by the constitutional clause (Art. I, Sec. ix, ¶ 4), which requires the apportionment of direct taxation among the states according to population.

Shifting and Incidence.—A tax is shifted when, through economic readjustment, the burden of the tax is transferred from the person who pays it in the first instance to other persons with whom he enters into contractual relations. The final resting point of the tax is its incidence. Thus the tax on tea imported into England is shifted from the importer, who pays it, to the retailer, who in turn shifts it to the consumer, upon whom is the incidence of the tax.

The principles governing the shifting of taxation are complex. In the field of customs and excise duties, where the investigation of shifting presents the fewest difficulties, an examination of the conditions of both supply and demand is essential to a judgment upon each concrete case. If the supply is produced under conditions of competition, with unit costs practically stationary, whether the volume of production is great or small, as in

the case of some common manufactures, the tax will, in the end, be shifted to the consumer. The promptness or tardiness with which this result is attained depends upon the state of the demand: whether an increased price is borne without serious curtailment of consumption or not. If the supply is produced competitively, but with unit costs increasing with the volume of supply, as in the case of many agricultural products, the tax can be shifted only in part. How much of the tax is shifted depends largely upon the character of the demand: if a rise in price occasions only a slight diminution in demand, most of the tax will be shifted: if the diminution in demand is great, almost all the tax may rest with the producer. In the case of commodities the unit costs of which decrease with increase in production, the burden shifted to the consumer will exceed the tax.

In the case of commodities produced under conditions of monopoly, the entire tax will be shifted only where public opinion has exercised an effective restraint upon price fixation. Where the policy of "charging what the traffic will bear" has been followed, only a part of the tax can, as a rule, be shifted, since the traffic will not bear the original monopoly price together with the tax. The character of the demand is the chief factor in determining the proportions in which the tax is distributed between the producer and the consumer. Whether the commodity is produced at constant, increasing or diminishing unit costs must also be taken into account. A monopoly producing at unit costs diminishing with volume of production finds the greatest difficulty in shifting the burden of a tax; a monopoly producing at increasing unit costs finds the least difficulty in shifting the burden. In this respect the situation of a monopoly is the reverse of that of a competitive enterprise.

A tax may be shifted forward to the consumer, or backward to an antecedent producer. Thus the effect of a tax on flour may be a rise in the price of bread, or a reduction in the price of wheat. An import duty on leather may raise the price of leather goods to the consumer, or it may depress the price of hides purchased by the tanner. The direction of the shifting depends upon the elasticity of demand, on the one hand, and the elasticity of the supply of raw materials, on the other.

Whether a tax on income or property can be shifted or not depends upon the practicability of removing the source of the income, or the property, from the field of the tax. General income taxes (so far as the minimum of existence is exempted) cannot be shifted. The same thing is true of general property taxes, if effectively administered. Special taxes imposed upon the rent of land, or upon the value of land, cannot be shifted; special taxes upon the income from improvements upon land, or upon their value, can be shifted

in part, though a considerable time may be required to effect this result. Special taxes upon the net profits of a monopolistic enterprise cannot be shifted. The monopoly has fixed its prices so as to secure the greatest sum of net profits: no increase in price can compensate it for a burden imposed upon it by the state. A special tax upon capital invested in forms requiring periodical replacement, such as mercantile stocks or the machinery or materials of manufacture, can usually be shifted. Special taxes upon credits, such as realty mortgages and bank loans, are readily shifted to the debtor through an advance in interest rates.

A special tax that cannot be shifted commonly results in a reduction in the capital value of the source of the tax. A permanent tax upon the net profits of a monopolistic corporation, reduces the aggregate value of the shares of the corporation by a sum equivalent to a capital yielding the amount of the tax. By the same principle, a permanent land tax reduces the value of land. A tax thus sunk in the capital value of its source is said to be "capitalized." Such a tax is no burden upon one who invests in the property taxed, since the price which he pays is reduced accordingly. Hence the paradox that an old land tax, however onerous originally, is no burden to the present body of land-owners.

Distribution of the Burden.—Taxes levied for purely fiscal purposes represent a burden which ought to be distributed equitably among the several citizens of the state. If the services of government to the individual were capable of definite appraisal, the accepted rule of apportionment would doubtless rest upon the benefits conferred by government upon the several citizens. Such appraisal is impossible; hence the attempts that have been made to found a theory of apportionment of taxes upon this basis have proven futile. The weight of present day financial authority accepts ability to pay taxes, or "faculty," as the proper basis of apportionment.

The measurement of "faculty" presents serious difficulties, both in theory and in practice. Such a crude test as ownership of property alone may be rejected without discussion. A more satisfactory test is income. In order to arrive at actual tax-paying ability, however, not income alone, but also necessary expenditures, must be taken into account. In practical systems of income taxation, some attempt is made to allow for necessary expenditures, through the exemption of very small incomes and abatements, or reductions in the rate of tax, upon moderate incomes.

Whether the rate of taxation on incomes above the exempted minimum should remain the same, whatever the magnitude of the income (proportional taxation), or should become heavier with increase in the magnitude (progressive taxation), is an unsettled question in taxation theory. The view that ability

to pay taxes increases more rapidly than income, and that progressive taxation is therefore theoretically justified, is gaining ground among financial authorities.

A further qualification of the income test of faculty arises from the fact that incomes are not homogeneous. An income from property differs in permanence and security from an income from labor; within each class of incomes marked differences in security appear. Theoretically the more permanent and secure incomes represent the higher degree of tax-paying ability; in actual systems of income taxation, property and labor incomes are sometimes differentiated, either through heavier rates on incomes from property or through supplementary taxes on property (*see* TAX, INCOME).

Political.—In practice political, administrative and sociological considerations as well as considerations of equity, play a part in the construction of a tax system and in the distribution of its burdens. Of these the most important are adequacy of taxation to the needs of the state, ease and economy of administration, and harmony with popular opinion. These considerations may conflict, in concrete cases, with one another, as well as with the fundamental consideration of equity. In a time of crisis, such as the American Civil War, all other considerations are apt to be subordinated to that of adequacy. Even under ordinary conditions, most modern states are compelled to rely in large measure upon indirect taxes, the incidence of which is indeterminate, and the equitable distribution impossible. A tax on income or property (*see* TAX, PROPERTY), rigidly enforced, as equity requires, is likely to be unpopular, and hence politically inexpedient. Taxes on luxuries consumed only by the wealthier classes are unproductive and difficult to administer, and hence are often practically inferior to the less equitable taxes upon necessities, or luxuries of wide consumption.

See REVENUE, PUBLIC, SOURCES OF; and under TAX; TAXATION; TAXES.

References: H. C. Adams, *Science of Finance*, (1905), Bk. II, chs. i, v; C. C. Plehn, *Introduction to Public Finance* (3d ed., 1909), Pt. II, chs. ii, x; E. R. A. Seligman, *Essays in Taxation* (5th ed., 1905), ch. ix. *Shifting and Incidence of Taxation* (3d ed., 1910), *The Income Tax* (1911), 3-48; C. F. Bastable, *Public Finance* (3d ed., 1903), Bk. III, chs. i-v; G. Cohn, *Science of Finance* (trans. by T. B. Veblen, 1895), Bk. II, chs. i-iv.

ALVIN S. JOHNSON.

TAXATION, PROGRESSIVE. The term progressive taxation is applied to a tax system where the rate increases at a more rapid rate than the base upon which the rate is calculated. In England such a principle, known as graduated taxation, is characteristic of the

income tax (*see*); and it is quite generally found in schedules of inheritance taxes (*see*). Such a principle has been justified, as by Wagner, as a means to secure a more equitable distribution; or it may be defended as the logical development of the faculty theory of taxation. *See* TAX, INCOME; TAX, INHERITANCE; TAXATION, CONSTITUTIONAL BASIS OF. **References:** E. R. A. Seligman, "Progressive Taxation in Theory and Practice" in *Am. Econ. Assoc., Publications*, IX (1894); C. F. Bastable, *Public Finance* (rev. ed. 1895), 288-300.

D. R. D.

TAXATION, PUBLIC PURPOSES OF.

Taxes can be imposed for public purposes only; there is, however, no clear line of demarcation between purposes of a public and private nature. As social needs change, what was formerly regarded as a private purpose may now be held to be of public service. *See* COST OF GOVERNMENT IN THE UNITED STATES; EXPENDITURES, STATE AND LOCAL; FINANCIAL POWERS, CONSTITUTIONAL BASIS OF.

D. R. D.

TAXATION, SUBJECTS OF. Historical Development.—The imposition of taxes has been developed under three controlling influences: (1) the need of a government to secure revenue for its support; (2) the demands of theory, in which emphasis is placed upon justice and equity; (3) the growth of a more complex economic life. Formerly, taxation turned to whatever object was available for the raising of funds, with little regard to the principle of justice to the taxpayers. The tax system was also largely shaped by the power of privilege, which endeavored to escape the burden of taxation and to thrust this upon the weaker classes. Gradually legislation was more consciously influenced by principles of equity in behalf of the taxpayer, and by consideration of certain indirect social and political advantages to be gained by the adoption of a particular revenue system. Finally, modern economic organization, with varied forms of property and intricate relationships, has invited a series of revenue experiments.

From the point of view of historical development, Seligman notes five stages: (1) taxes on individuals; (2) taxes on property; (3) taxes on expenditures; (4) taxes on products; (5) taxes on income. In this development is to be found a more or less conscious desire to attain a norm whereby taxpayers shall pay according to ability, thus fulfilling the requirements of social justice. In these successive attempts various subjects have been chosen for taxation: (1) persons, seen in poll or capitation taxes; (2) property, both real and personal, found in the general property tax; (3) consumption or expenditures, seen in customs and excise or internal revenue duties; (4) products, as seen in business taxes and

land and house taxes—a distinction being made between property in general and property which yields a direct return; (5) income as seen in the income tax.

Classification.—Writers on finance differ in the classification of taxes. Taxes may be classified, according to their incidence, as direct or indirect; according to the source of the productive agent from which they are drawn, as taxes on rent, interest, wages or profits; or according to their form, without regard to ulterior analysis of incidence and source. The Bureau of the Census, which now publishes an annual volume on the receipts of municipalities, distinguishes between: (1) property taxes, divided into (a) general, and (b) special; (2) business taxes, collected from persons, natural or corporate; (3) licenses or permit taxes; (4) poll taxes. Henry C. Adams classifies taxes as those of: (1) income; (2) property; (3) business. C. C. Plehn adopts the following headings: (1) general property tax; (2) poll tax; (3) taxes on selected kinds of business; (4) taxes on certain ways of conducting business, such as the corporate form; (5) inheritance taxes; (6) income taxes.

Federal and State.—With few exceptions there has been a sharp line drawn in the United States between objects chosen for national and for local taxation. In part this is due to the requirements of the Federal Constitution, which denies to the states the right to lay impost duties (Art. I, Sec. x, ¶ 2); and in part to practical consideration of convenience and expediency. Taxes on expenditures levied by customs and internal revenue duties are reserved for the national Government, while taxes on property are employed by states and towns. Only on two occasions have direct taxes (*see* TAX, DIRECT) on property been imposed by the Federal Government, and owing to the difficult provisions of the Constitution prescribing the method of assessing this tax, it is not likely to be again laid. In levying duties on imports, tariffs may embrace a wide range of commodities, and there has been a steady tendency to decrease the number of "free" commodities. The duties may be levied either for revenue or for the encouragement of industry; and as the protective policy has been characteristic of our revenue system, practically every sort of foreign commodity at one time or another has been taxed in the interest of home industry or of providing a revenue.

Except during the Civil War, the range of subjects upon which internal revenue duties have been laid has been narrow. For the most part they have been confined to distilled and malt liquors, and tobacco in its various forms. Upon special occasions they have been levied upon business transactions and collected through stamp duties, and during the Civil War they were extended to practically every kind of domestic industry and their products.

In recent years there has been a tendency for the Federal Government to extend the scope of its revenue system and to take in subjects which had hitherto been restricted to local taxation. This has been chiefly due to the need of greater revenue, and to secure this even an income tax was imposed during the Civil War. There are also indications of a conviction that certain problems of social concern require for their solution the imposition of special taxes. The desire to impose greater restrictions upon individuals and corporate wealth was in part responsible for the income tax of 1894, and later for the tax on inheritances (*see*) and, to a less degree, for the federal corporation tax (*see*) of 1909 and the income tax (*see*) of 1913.

The state governments, like the local governments, have until recently relied upon the general property tax, but with the growth of corporations there has been an increasing tendency to impose special taxes upon these forms of business enterprise. Even in the first half of the nineteenth century the tax on banks was a fruitful source of state revenue. Some states, indeed, now find the taxes on corporations so productive that they have been able to dispense with the general property tax and leave this entirely to the use of the local units of government. Such is the case in New York.

The general property tax (*see*), if strictly administered, is all embracing in its scope, for property may include not only real estate, land, houses, factories and physical equipment, such as livestock, furniture and machinery, but also wearing apparel, watches and paintings; it extends to mortgages and certificates of ownership in corporate property, as represented in securities of stocks and bonds. In practice, however, the effort is rarely made to list all the forms of property which the law justifies. Real estate and property in intangibles, such as securities, mortgages and notes, constitute the chief object of the assessor's inquiry.

Municipal.—As illustrating the wide range of sources from which revenue is derived by cities, it may be noted that in Massachusetts cities obtain revenue not only from poll taxes and the general property tax, but also from special property and business taxes, such as a tax on capital stock of banks, street railways and other corporations (collected by the state but apportioned to the cities); in Illinois, Kansas, New Hampshire, and New Jersey, from a tax on given premium receipts of fire and life insurance companies; in Maryland from taxes on savings bank deposits; and in Wisconsin from an inheritance tax.

As the personal property tax has generally proved unsatisfactory, there is a tendency to substitute other taxes like income and inheritance taxes. In fact the general property tax is rapidly becoming a tax on land and real

estate only. In the southern states, business taxes are largely used in addition to the property tax.

See **ASSESSMENT OF TAXES**; **ASSESSMENT, SPECIAL**; **BANK TAXES**; **BETTERMENTS, ASSESSMENT FOR**; **CORPORATIONS, TAXES ON**; **LICENSE TAXES ON OCCUPATIONS**; **REVENUE, INTERNAL**; **TARIFF RATES**; See also **TAX, TAXATION, TAXES**.

References: C. F. Bastable, *Public Finance* (2d ed., 1895), Bk. IV; C. J. Bullock, *Selected Readings in Public Finance* (1906), 193-424; C. C. Plehn, *Introduction to Public Finance* (3d ed., 1909), 79-132, 218-335; R. T. Ely, *Taxation in Am. States and Cities* (1888), 246-349. DAVIS R. DEWEY.

TAXES, APPORTIONMENT OF.—The term is frequently used for assessment of taxes; more correctly it applies to the fixing by the Federal Government of the amounts payable by the state for direct taxes or the assignment of sums payable by counties or cities for state purposes. See **ASSESSMENT OF TAXES**; **BOARDS OF REVIEW**; **TAXATION, CONSTITUTIONAL BASIS OF**; **TAXES, DIRECT**. A. B. H.

TAXES, ASSESSMENT OF. See **ASSESSMENT OF TAXES**.

TAXES, BACK. A cause of uncertainty and disorder in all city finances is the habit of assuming that all assessed taxes will be paid. Poll taxes, whether made a condition of the suffrage or not, always much underrun the number assessed, and are not likely to be recovered later on. Taxes on personal property are frequently avoided by removal of the property from the district in which it is assessed. Real estate taxes, though based upon visible and immovable property, are in some communities (as in Buffalo, New York) sometimes allowed to run indefinitely, usually with a penalty of a high rate of interest; and the property may ultimately not be worth the face of the accumulated taxes.

To allow for this regular diminution of the income in some communities (as in Massachusetts) it is customary to include an "overlay," as one of the liabilities which much be provided for in the total amount of taxation for the year. Where the overlay is omitted, or is insufficient, there will be a steady accumulation of debt somewhere because of the insufficiency of the income. In some communities the collector is allowed a commission upon the collection of back taxes, and therefore encourages people to let their taxes run over. In other cases back taxes are put into the hands of a special collector who makes personal visits; but any tax (other than on real estate) which is unpaid for one year will probably never be collected.

The system of assessments for local improvements usually includes a distribution of the

payment over a series of years, in instalments calculated to include interest; but most growing cities have considerable sums thus locked up in what constitute practically a body of taxes assessed but not yet paid.

See **ASSESSMENT OF TAXES**; **BETTERMENTS, ASSESSMENTS FOR**; **REVENUE, PUBLIC COLLECTION OF**; **TAX DODGING**; **TAX, PERSONAL PROPERTY**. A. B. H.

TAXES, BANK. See **BANK TAXES**.

TAXES, DIRECT. Economic Distinction.—In the classification of taxes the most obvious distinction is between direct and indirect taxes. According to Mill: "A direct tax is one which is demanded from the very persons who it is intended or desired should pay it. Indirect taxes are those which are demanded from one person in the expectation and intention that he shall indemnify himself at the expense of another." As Bastable points out, the difference is made to turn on the mode of incidence, which is often difficult to determine, and always useless for administrative purposes. "A natural result has been that practical financiers have adopted a different basis of distinction, and regard those taxes as direct which are levied on permanent and recurring occasions; while charges on occasional and particular events are placed under the category of indirect taxation." By either classification an income tax would be direct, and internal revenue and customs duties indirect; an inheritance tax, however, according to Mill would be direct; but according to frequent administrative use, indirect.

Other criteria of classification have also been suggested but none receive general acceptance. As a result there is not agreement even in administrative classification. In general, apart from federal judicial interpretation, it would be agreed that direct taxes include taxes on land, buildings, property, polls, income and business.

Constitutional Question.—The question of classification has assumed more than academic importance in the United States because of the requirement of the Constitution, up to the adoption of the Sixteenth Amendment (*see*) in 1913, that direct taxes shall be apportioned among the several states according to population (Art. I, Sec. ix, ¶ 4). The provision was accepted without opposition, on the assumption that wealth was on the whole equally distributed throughout the country, and that no state could evade such taxes. No statement was made in the debates of the constitutional convention which would indicate just what taxes were included under the term direct.

According to Seligman, there is only one known prior use of the term in the United States, namely, in an act of Massachusetts in 1786. Adam Smith, whose work, *The Wealth of Nations*, was possibly familiar to some

members of the convention, did not use the classification of direct and indirect, though he referred to taxes on expenditures as indirect. The writings of the French physiocrats, however, were not unknown, and it is probable that from this source the distinction was derived, though not carefully defined. According to the French school, taxes were direct when laid immediately upon the landowner, and indirect when laid upon somebody else.

In the state conventions which ratified the Constitution, five different meanings were suggested for "direct tax": (1) a tax on the states; (2) land tax; (3) poll and land tax; (4) poll tax, with a general assessment on property; (5) a tax on land and on specific articles of personal property. The interpretation, therefore, devolved upon the Supreme Court in deciding the case *Hylton vs. U. S.* in 1794 (3 *Dallas* 171). Congress imposed a tax on carriages; *Hylton* claimed that this was a direct tax and should therefore be apportioned among the states. The court, however, held that it was a tax on the expenses of living and not a direct tax; there were only two forms of direct taxation, poll and land taxes. In this decision the court early set its seal of approval upon a workable administrative distinction, rather than upon the academic definition which economists have been disposed to accept.

Early Levies.—Direct taxes have been imposed by Congress on five different occasions, 1798, 1813, 1815, 1816, and 1861. The act of 1798 apportioned \$2,000,000 among the states; prescribed the machinery of assessment and collection, and placed the levy upon lands, houses, and slaves. Slaves were assessed at fifty cents each, and houses at uniform rates throughout the country. Here the rate was progressive, varying on houses from two-tenths of one per cent to one per cent. If these requisitions did not fulfill a state's apportionment, rates were applied to land and improvements to meet the deficiency. As a fiscal measure the tax was not a great success; payments were delayed, one-fifth being unpaid at the end of three years.

The act of 1813 called for \$3,000,000; and that of 1815 for an annual tax of \$6,000,000. The act of 1816 repealed the provision for an annual tax, and substituted a current tax of \$3,000,000. Some deviation was made in these later acts in the method of collection, opportunity being given to the state to pay directly their quotas in a lump sum, with a discount of 15 per cent as an allowance for expense of collection and for prompt payment. This, however, did not change the administrative character of the tax; it was a tax upon individuals in the states and not upon the states.

Direct Tax of 1861.—In 1861 (August 5) a direct tax of \$20,000,000 was authorized, again

based upon lands, houses, and slaves. The states were also given the privilege of assuming the tax. Economic conditions now made the tax an anachronism; wealth was not distributed according to population, and personal property had increased far more rapidly than real estate. The eastern manufacturing centers were, therefore, favored at the expense of agricultural districts. All the loyal communities, except Delaware and the territory of Colorado, assumed the apportionments. Settlements, however, were slow, payments being made as late as 1870.

From the eleven southern states it was difficult to make collections. Out of their quotas of \$4,972,000 there remained \$2,731,000 uncollected.

In 1868 the Supreme Court of the United States decided that the direct tax act did not create any liability on the part of a state to pay the tax, but that the tax was upon property of individuals. The collection of the unpaid balances was for years a subject of congressional debate. Congress authorized the appointment of special officials to levy the tax and sell real property, but it was soon realized that this was a harsh procedure to apply in a section already impoverished and embittered by the mistakes of reconstruction policy. Finally, all efforts ceased, and it was proposed that the tax already paid in should be refunded to the states. A bill to this effect, passed in 1889, was vetoed by President Cleveland as a "sheer, bold gratuity." In 1891 after a change of party the advocates were more successful, and \$15,000,000 was repaid to the several states which had formerly contributed, partially as a means of cutting down the surplus.

Court Decisions.—The federal courts have had to render decisions involving the definition of a direct tax in several cases besides that of the carriage tax. In 1868 the tax on incomes of insurance companies (*Pacific Insurance Company vs. Soule*, 7 *Wallace* 433) was declared to be an indirect tax. The same conclusion was reached in regard to the federal tax on state bank notes (*Veazie Bank vs. Fenno*, 8 *Wallace* 533); in regard to tax on incomes in 1870 (*Springer vs. U. S.*, 102 *U. S.* 586); and in regard to a tax on inheritance of real estate (*Scholey vs. Rew*, 23 *Wallace* 231). In 1895 the Supreme Court held that a tax on income from land was a direct tax, thus defeating the objects of the income tax law of 1891 (see *WILSON-GORMAN TARIFF*). While this latter decision is more in accord with academic definition, it was a reversal of the interpretation long admitted under administrative practice.

See TAX, INCOME; TAX, LAND AND REAL ESTATE; TAX, PERSONAL PROPERTY; TAXATION, SUBJECTS OF; TAXES, INDIRECT.

References: C. F. Dunbar, *Economic Essays* (1904), 94-115; E. R. A. Seligman, *In-*

come Tax (1914), 531-589; C. J. Bullock, "Origin and Effect of the Direct-Tax Clause" in *Pol. Sci. Quart.*, XV (1909), 470-481; C. F. Bastable, *Public Finance* (2d. ed., 1895), 256-7, 326-7.

DAVIS R. DEWEY.

TAXES, DOOMING OF. This term is applied to the practice whereby assessors arbitrarily increase the assessments of taxpayers as a penalty for not making a complete return. In some states the law authorizes the assessors to multiply by two, or even by four, the value of the property which can be ascertained, on the theory that the taxpayer cannot secrete more than half or a quarter of the property; and if doomed he will be induced to make a return. See **ASSESSMENT OF TAXES**; **TAX, PERSONAL PROPERTY**. Reference: D. A. Wells, *Theory and Practice of Taxation* (1900), 431, 550.

D. R. D.

TAXES, EQUALIZATION OF. As the assessment of property is generally undertaken by local officials (*see* **ASSESSORS OF TAXES**), who are independent in their standards of appraisal, much unevenness in valuation results. This becomes a serious difficulty when a part of the taxes thus locally collected have to be paid into the treasury of the state. Each township or county finds it to its interest to undervalue its own property, in order to lessen its contribution to the state. As a remedy, some states have established county boards of equalization, whose business it is to review the assessments of township officials, and, if necessary, to apportion the state tax arbitrarily among the smaller units, thus forcing them to revise the assessments in order to secure the required amount of tax. In a few states, there is a state board which adjusts differences between counties. In some states a board may change the valuation of an individual, or of classes of property. Boards of equalization, however, have not been successful in securing equality of assessment. In Ohio, for example, in 1907, the ratio of assessment to estimated true value of real property in the several counties ranged from 27 to 70 per cent, and in Kansas from 17 to 42 per cent. See **ASSESSMENT OF TAXES**; **BOARDS OF REVIEW**; **TAXATION, PUBLIC PURPOSES OF**. Reference: C. C. Plehn, *Introduction to Public Finance* (3d ed., 1909), 435.

D. R. D.

TAXES, INDIRECT. Indirect taxes are to be distinguished from direct taxes in so far as they involve a shifting of the burden from the immediate payer to the ultimate user or consumer of the thing taxed; while direct taxes fall where they are levied (*see* **TAXES, DIRECT**). According to Wagner, as summarized by Plehn, a further distinction is to be found in the different methods of administrative procedure. Direct taxes are laid according to some fixed fact, as of personality, rank,

property, or earnings, and are consequently assessed according to some list or roll. Indirect taxes are laid according to some changing, temporary, more or less accidental fact, the result of processes and transactions, and are laid and collected according to tariffs.

In American usage, indirect taxes generally refer to customs and internal revenue duties. On the continent of Europe they include the octroi and other forms of municipal taxes. Historically, indirect taxes preceded direct taxes, because sovereigns found it necessary to disguise the collection of revenue and secure it by methods more or less concealed. Although this motive no longer exists in its cruder aspects, there is no doubt that it is easier to collect revenue through increased prices of commodities than by direct payments to the treasury. Concealment of the real tax in part explains the general acceptance of high tariff duties without protest. Practically all of the federal revenue, so far as taxation is involved, is derived from indirect taxes, while local revenue is derived from direct taxes. The cost of collecting indirect taxes is as a rule greater than that of direct taxes.

See **IMPOSTS**; **REVENUE, INTERNAL**; and under **TAX**.

References: E. R. A. Seligman, *Essays in Taxation* (1897); W. M. Daniels, *Elements of Public Finance* (1899), 98-110; C. C. Plehn, *Introduction to Public Finance* (1909), 105.

DAVIS R. DEWEY.

TAXES, LICENSE, ON OCCUPATIONS. See **LICENSE TAXES ON OCCUPATIONS**.

TAXES ON CORPORATIONS. See **CORPORATIONS, TAXES ON**.

TAYLOR, JOHN. John Taylor was born in Orange county, Virginia, 1750, and died in Caroline county, Virginia, August 20, 1824. Educated at William and Mary College, he became a lawyer-planter and also a leader in the Revolutionary movement. From 1792 to 1794 he was a member of the United States Senate and an ardent Jeffersonian. He was an elector on the Republican ticket in 1796, leader of the Virginia legislature in 1798-99; and he exercised a great influence in the campaign of 1800. Though an opponent of Madison in 1808, he brought about a reconciliation between the President and Monroe which resulted in the appointment of the latter as Secretary of State in 1812. From 1815 to his death he fought the centralizing tendency of the Federal Government and to this end wrote many books, the principal of which were: *An Enquiry into the Principles and Policy of the Government of the United States* (1814), *Construction Construed* (1820), *Tyranny Unmasked* (1822), and *New Views of the Constitution* (1823). Taylor was also a scientific agriculturist and published *Arator*, an impor-

tant work on the subject which passed through many editions. He was a member of the United States Senate at the time of his death. See *POLITICAL THEORIES OF RECENT AMERICAN PUBLICISTS*. Reference: Randolph Macon College, *Historical Papers*, II (1907).

W. E. D.

TAYLOR, ZACHARY. Zachary Taylor (1784-1850), twelfth President of the United States, was born in Orange county, Va., November 24, 1784. He entered the Army, became a captain in 1810, and until the close of the War of 1812 served with credit on the frontier. In 1832 he was made colonel, served in the Black Hawk war, and in 1836 fought the Seminoles in Florida. For this latter service he was made brigadier-general. At the beginning of the Mexican troubles he was in command of the southern division of the western department, with headquarters in Louisiana. In November, 1845, he occupied Corpus Christi, from which point, under order from Washington, he advanced to the Rio Grande. May 8 and 9, 1846, he defeated the Mexicans at Palo Alto and Resaca de la Palma. Promoted to major-general, he took Monterey in September, and in February, 1847, defeated the Mexicans at Buena Vista. He was disliked and distrusted by President Polk, however, and saw no further active service. In 1848 he was nominated for President by the Whig national convention at Philadelphia, and elected, receiving 163 electoral votes against 127 for Lewis Cass. He refused to approve the compromise of 1850, thus breaking with the southern Whigs. He died in office, July 9, 1850.—See *WARS OF THE UNITED STATES*. References: O. O. Howard, *General Taylor* (1892); J. F. Rhodes, *Hist. of the U. S.* (1893-1905), 1; E. Stanwood, *Hist. of the Presidency* (1898), ch. xviii. W. MacD.

TEACHERS IN PUBLIC SCHOOLS, LEGAL RIGHTS OF. See *SCHOOLS, PUBLIC, LEGAL RIGHTS OF TEACHERS IN*.

TEACHERS, LEGAL QUALIFICATIONS OF. Certificates to teach are issued by state, county and district (city or town) education officers, but several of these units may certify the same person. We have: (1) the state system (Vermont-Iowa); (2) the state-county system (Georgia-Indiana); (3) the state-county-local system (New York-Texas); (4) the state-local system (Massachusetts-Alabama); (5) the county system (found only in Delaware). There is a universal demand that certificates be issued only to persons of good moral character; that experience to be accepted as a qualification for a certificate must be successful experience, and that whatever examinations are given in physiology and hygiene, the nature and effects of stimulants and narcotics are included. Every certificate specifies the

territory within which the holder may teach, the kinds of positions for which it is valid, and the length of time for which it is issued.

There is a great variation in these factors which is defined by the laws in the various states. Certificates are issued on the successful completion of an examination set by the proper authorities provided all other requirements are met. In nearly all states, graduates of the normal schools are certified to teach the common branches, usually for life after successful experience. College graduates receive a special certificate in many states after having finished a certain amount of professional work. More and more states are requiring high school graduation or equivalent for all certificates. Most of the states require knowledge in at least three professional subjects. The most frequent age requirement for the lowest grade certificate or license to teach is 18 years; 25 states have fixed this limit; 2 states require 16 years; 8 states, 17 years; and 1 state, 21 years; 12 states have no fixed limit of age. No state makes any experience requirement for the lowest certificate. Twelve states require experience for the middle certificate. Examinations and certificates are issued for high school teachers in nearly all the states but the better high schools have set their standards higher, so that the practical certificate for many of them has become graduation from a reputable college.

Diplomas from certain educational institutions are generally recognized as valid teacher's certificates or as a partial or complete fulfillment for certain certificates. Twenty-one states keep lists of accredited educational institutions whose diplomas are recognized. There is a reciprocal adjustment of grades and certificates among most of the states.

See *EDUCATION, RECENT TENDENCIES IN*; *PENSIONS FOR TEACHERS*; and under *SCHOOLS, PUBLIC*.

References: H. Updegraff, "Teacher's Certificates" in U. S. Bureau of Education, *Bulletin No. 465* (1911); F. E. Bolton, "Preparation of High School Teachers" in *School Review*, XV (Feb., 1907), 97-122; S. T. Dutton and D. Snedden, *Administration of Public Education in the U. S.* (1908); A. R. Hill, "Preparation and Certificates of Teachers" in Missouri State Teachers' Assoc., *Proceedings and Addresses* (1904). J. V. BREITWIESER.

TECHNICAL EDUCATION. See *EDUCATION, TECHNICAL*.

TELEGRAPHS, REGULATION OF. Soon after the invention of the electromagnetic telegraph, Professor S. F. B. Morse petitioned Congress for an appropriation for the construction of a line for the practical test of the invention. Having thoroughly investigated the matter, the Committee on Commerce of Congress on December 30, 1842, advised Congress as follows:

So inviting, indeed, are the prospects of profit to individual enterprise, that it is a matter of serious consideration, whether the Government should not, on this account alone, seize the present opportunity of securing to itself the regulation of a system which, if monopolized by a private company, might be used to the serious injury of the Post Office Department.

As a first step the Committee recommended the appropriation of \$30,000 to be expended in constructing a line of electromagnetic telegraphs between Washington and Baltimore. The line completely demonstrated its practicability and utility.

Rejection of Proposition of Sale of Invention to Government.—Professor Morse then made a complete report of the experiment to the Secretary of the Treasury, and suggested as follows:

Should the Government be now disposed to possess the right of the proprietors, by giving them a fair consideration, I shall be ready to treat with them on the terms of transfer.

For myself, I should prefer that the Government should possess the invention, although the pecuniary interests of the proprietors induce them to lean towards arrangements with private companies.

A proposition by Professor Morse that the Government should purchase the whole invention for the sum of \$100,000 was rejected.

Further measures looking toward the Government acquisition of the telegraphic system of the country have been introduced into Congress in the unsuccessful Washburn Bill of 1870 and Postal Telegraph Bill of 1872.

Constitutional and Statutory Basis of Government Regulation.—Having declined to adopt any plan of government ownership of the telegraphs, the United States for its power to regulate telegraphs and telephones relies on: (1) its constitutional right (Art. I, Sec. viii, ¶ 3) to regulate interstate commerce; (2) its constitutional right to establish post roads (Art. I, Sec. viii, ¶ 7), and the Post Roads Act of 1866; (3) a statutory law enacted June 18, 1910.

Upon the application of the interstate commerce clause of the Constitution to telegraphs there is a decision of the Supreme Court in *Telegraph Co. vs. Texas* (105 U. S. 460):

In *Pensacola Telegraph Co. vs. Western Union Telegraph Co.* (96 U. S. 1), this court held that the telegraph was an instrument of commerce, and that telegraph companies were subject to the regulating power of Congress in respect to their foreign and interstate business. A telegraph company occupies the same relation to commerce as a carrier of messages that a railroad company does as a carrier of goods. Both companies are instruments of commerce, and their business is commerce itself.

Post Roads Act.—By Act of Congress passed in 1866 and by subsequent legislation, all telegraph companies have a right of way over public lands and over all military and post roads. Since post roads include all railroads and all letter carrier and free delivery routes, this act guarantees the possible extension of the benefits of telegraphic service to all parts of the United States accessible to the mails.

A railroad company has no right to grant telegraphic monopoly of its right of way to a single telegraph company. The poles of one company along a railroad right of way may, however, be held for the exclusive use of the owner of the poles. By a statute of June 18, 1910, the Interstate Commerce Commission receives almost absolute jurisdiction over rates, routes and service of interstate carriers, and the provisions of this statute expressly apply to telegraph, telephone and cable companies (whether wire or wireless).

See COMMERCE; POST ROADS; POSTAL SYSTEM OF THE U. S.; PUBLIC SERVICE COMMISSIONS; TELEPHONES, REGULATION OF; WIRELESS TELEGRAPHY.

References: A. Vail, *Magnetic Telegraph* (1845); D. A. Wells, *Relation of the Government to the Telegraph* (1873); N. Green, "Postal Telegraphs" in House Committee on Post Offices and Post Roads, *Statement* (1890); H. R. Meyer, *British State Telegraphs* (1907); S. W. Jones, *Telegraph and Telephone Law* (1906); J. A. Joyce and H. C. Joyce, *Treatise on Electric Law* (1912); F. Parsons, *Telegraph Monopoly* (1900); E. B. Vedder, *Government Telegraph* (1888); U. S. Census, "Telegraph Systems" in *Bulletin No. 102* (1901); *Am. Year Book*, 1910, 534, *ibid*, 1911, 461, *ibid*, 1912.

G. W. PIERCE.

TELEPHONES, REGULATION OF. The general statutes under which telephone companies are organized, as well as the provisions of their charters and by-laws, compose the three bodies of law by which all such organizations or corporations are governed. The right to carry on a telephone business, known usually as a franchise, is exercised by legislative authority, although a municipality may have the right to regulate and control the manner in which it is exercised, for example, in respect to its occupying the public streets.

Whenever a telephone company holds itself out to the people, after obtaining power of exercising the right of eminent domain, it then becomes a public servant to be controlled by the people. Though an individual may own and conduct a telephone system without legislative authority, assuming there is no statutory prohibition, yet for the exercise of the right of eminent domain, and to occupy public streets or highways, legislative authority is necessary.

A municipality may legally annex to the grant of a telephone franchise a condition limiting the rates to be charged to its citizens. Furthermore it is well settled that a grant by a municipality of rights or franchises to a telephone company and their acceptance by such company, constitute a contract which is binding upon the municipality so that it cannot be changed without cause, or made subject to new and burdensome conditions not justifiable under the municipality's police power.

In applying the principles of the common law, or in construing statutes, the telephone is to be considered a telegraph unless express statutory provisions govern.

In an interesting case in Virginia a telephone company relied upon the Post Roads Act to occupy the streets, although when that act was passed the company had not yet been established. It was properly held by the Supreme Court of the United States that the intent of Congress in the term "telegraph companies" meant and could have intended only such companies as employed the means then in use for the sending of messages by "sounds of instruments or by signs." This indeed is a leading case and respecting telephone companies it is good law today (*City of Richmond vs. Southern Bell Telephone and Telegraph Co.*, 174 U. S. 761).

It is the New York rule and has generally been held that telegraph and telephone companies, in the absence of a statute, are not common carriers. Nevertheless, such companies are not merely private companies for personal gain only, as the business in which they are engaged is for the benefit of and used for the advantage of the general public. Because of the public nature of their employment, such companies in some states, notably in Virginia, have been held to a responsibility very similar to that of a common carrier. So in South Carolina and Tennessee it has been held that telegraph and telephone companies are common carriers of news. It follows that, while the telephone companies are considered liable for negligence, in the performance of their public duties, they are clearly not liable as insurers.

In many states, general laws provide that any company, organized to carry on a telephone or telegraph business, shall be entitled to "the use of the roads, highways and public lands of the state in the telephone business." And in those states the telephone company upon its organization becomes vested with a franchise from the state "to use the roads, highways and lands mentioned." A well known example is the Ohio statute, with the usual provision that such construction shall not "incommode the public in the use of the said roads, or highways, or endanger or injuriously interrupt the navigation of any waters" within the limits of said state.

In return for franchises of this character granted by these states, the laws of the states usually obligate the telephone company to perform certain specified services in time of war or of civil disturbance, such as giving prompt service to messages of the state or Federal Government in such troublous times, and even specifically for the arrest of criminals. Under these statutes the telephone companies may construct their lines along the streets and public highways of municipal corporations without the permission of the city authorities, the com-

panies being granted by the legislatures in such states the rights "to use the streets quite irrespective of any consent or agreement on the part of any municipality."

In construing such statutes emphasis should be laid upon the well recognized principle of law that the term "public highways" includes "city streets," from which it follows that the rights of a telephone company extend to the use of streets of a city without express mention if the words "public highways" are used.

In states where telephone companies enjoy a state franchise under the general statutes, the cities are normally allowed the power to regulate the use of streets, or to designate the streets to be occupied, the kind of poles and where located, the heights of the wires and places where the wires may be run. And, under the police power, the municipal authorities doubtless have such rights, even where there are no specific stipulations by the statutes giving city authorities the right to regulate the mode or manner in which the telephone companies must use the streets. By police power is meant "that authority under which everything necessary to the protection of the property of the citizen and the health and comfort of the public may be done."

Telephones, like the Post Office, naturally tend to a monopoly, since everybody wants to be connected with everybody else; but in many parts of the country two rival systems operate side by side. This leads to difficulty in connections from one system to another; and the tendency at present is toward consolidation under one great national company. In 1912 the Bell Telephone Company, the largest corporation, secured the control of the Western Union Telegraph Company so that the two systems of transference could be worked together.

The most serious public question related to telephones is that of rates. In Boston and other cities, elaborate investigations have been made by public experts; and the companies have revised rates in consequence. In some places the telephones are subject to a local or state public utility commission. Although telephones in England, Switzerland, and some other countries are owned and operated by the state, there has been little demand for a public system in the United States.

See CORPORATION CHARTERS; FRANCHISES, CORPORATION, FINANCIAL ASPECTS OF; PUBLIC SERVICE COMMISSIONS; TELEGRAPH REGULATION.

References: A. H. McMillan, *Telephone Law* (1910); W. W. Cook, *Corporations* (1912), IV, 933-943; S. W. Jones, *Telegraph and Telephone Law* (1906); U. S. Census, *Special Report on Telephones and Telegraphs* (1906); *Am. Year Book*, 1910, 534; *ibid*, 1911, 461; *ibid*, 1912, 129, 286, and year by year.

RALPH WOODWORTH.

TELLER RESOLUTIONS. While the Senate was considering a joint resolution, April 20, 1898, for declaring the independence of Cuba, Senator Teller offered a series of amendments which were accepted as a substitute for the proposal to recognize the insurgent government of the island. The principal clause is as follows:

That the United States hereby disclaims any disposition or intention to exercise sovereignty, jurisdiction, or control over said island except for the pacification thereof, and asserts its determination, when that is accomplished, to leave the government and control of the island to its people.

See CUBA AND CUBAN DIPLOMACY; PLATT AMENDMENT.

References: J. D. Richardson, *Messages and Papers of the Presidents* (1899), X, 146-155, 164, 201; *Cong. Record*, 55 Cong., 2 Sess., (1898), 3776, 3954, 3993, 4040, 4062.

C. G. C.

TEMPERANCE AGITATION. From the first foundation of the colonies it was found necessary to regulate the business of selling alcoholic liquors by license and positive law. The excise laid by several colonies and states, down to the year 1789 and incorporated into the federal fiscal system from 1791 to 1802, and from 1862 down (see REVENUE, INTERNAL), have been based in some degree on a desire to limit the traffic. The first formal propaganda was the movement of the Washingtonian Societies about 1830, strongly aided a little later by the Catholic temperance societies inspired by Father Matthew. A Maine statute of 1846, elaborated into the Maine Law (see) of 1851, was the first successful legislative effort to prohibit the sale of liquor altogether. Local and general societies and orders, such as the Sons of Temperance, and the Women's Christian Temperance Union, have for many years carried on an agitation, in most cases demanding prohibition (see). Since 1869 there has been a national political organization which under various names has influenced legislation and has put candidates for the presidency into the field. It is now called the Prohibition Party (see). The movement has been aided in recent years by the conviction of large employers of labor that the use of liquor interferes with the efficiency of their workmen. In the South this motive has had large effect, particularly because of the great number of negro hands. The railroads have taken it up and several roads, among them the Lackawanna in 1912, have made the rule that they will discharge any employee known to use liquor. On the other hand there is a steady increase in the per capita consumption of beer and wine, and perhaps of distilled liquors throughout the country; and the breweries, distilling, and wine industries are among the most prosperous in the country. See DRUNKENNESS, REGULATION OF; HEALTH, PUBLIC REGULATION OF; LABOR AND WAGES; LIQUOR LEGISLATION;

ORIGINAL PACKAGE; PROHIBITION; PUBLIC MORALS. CARE FOR; REVENUE, INTERNAL; SOCIAL REFORM PROBLEM. A. B. H.

TEMPORARY CHAIRMAN. Presiding officer of a party nominating convention until the permanent organization is completed. "The temporary chairman is the convention." He strikes the keynote in his opening speech, and in all but the national convention he appoints the committee on credentials, thus deciding which delegates are admitted. The national convention usually accepts the chairman nominated by the national committee, but it may reject him for one more nearly representing the sentiment of the majority of delegates. After his speech setting forth the ideals of his colleagues the temporary chairman proceeds to the appointing of committees and other business incident to permanent organization. See CONVENTION, POLITICAL; NOMINATION OF THE PRESIDENT. References: J. A. Woodburn, *Pol. Parties* (1903), 177-178; J. Bryce, *Am. Commonwealth* (4th ed., 1910), II, 182; A. B. Hart, *Actual Government* (1903), 96. J. M.

TENEMENT HOUSE REGULATION. In the regulation of tenement houses through statute and ordinance America has made its chief contribution towards the solution of the housing problem. Buildings of this kind have been so regulated since 1867. In most of our states and in many of our large cities will now be found either a state law or a local ordinance dealing with this question. The power of the state to enact regulations of this nature is well established as a legitimate exercise of the police power. Most such enactments even though drastic and sweeping, have been upheld by the courts.

Most tenement laws include provisions governing the construction of new houses, the improvement and alteration of the older ones, and the maintenance of all. They also frequently include more or less elaborate provisions for their enforcement. They necessarily deal with questions of light and ventilation; sanitation; fire protection and social welfare. Through laws of this kind are controlled the proportion of lot area which may be occupied; size of yards; relation of height to the width of streets; sizes of courts and similar open spaces reserved for light and air; size of rooms, lighting and ventilation of rooms and halls; privacy of access; occupancy of basements and cellars; precautions against dampness; water-closet accommodations; sewer connections; sanitary plumbing; fire protection; fireproof construction; fire-escapes; egress; keeping the building in repair; water supply; cleanliness; improper and dangerous occupancy; room overcrowding; congestion; vaults and other nuisances; and even immorality. In practically every city the tenement house laws touch upon all of these subjects.

The fundamental features of all tenement laws are about the same, because most of them have been modelled on the New York statute. Within recent years a better model has been found and is now being used generally.

A tenement house for purposes of the law is any house in which three families or more live independently of each other and do their cooking on the premises and have certain common rights in the public parts of the building, such as the halls, stairs, yard, cellar, etc.

It thus includes, under the same regulation, the better grade multiple dwellings, popularly known as "flats" and "apartment houses." In some cities the standard is set at houses occupied by two families; indeed, the present trend is to include even single family dwellings under the same requirements.

See BUILDING LAWS; FIRE LIMITS; HEALTH, PUBLIC REGULATION OF; HOTELS AND LODGING

HOUSES; LODGING HOUSES. REGULATION OF; MODEL DWELLINGS; MUNICIPAL HOUSING; NUISANCES, ABATEMENT OF; POVERTY AND POOR RELIEF; PUBLIC MORALS, CARE FOR; SEWERS AND SEWAGE DISPOSAL; SOCIAL REFORM PROBLEMS; SWEATSHOPS.

References: Lawrence Veiller, *Model Tenement House Law* (1910), *Housing Reform* (1910); *Am. Year Book*, 1911, 244, *ibid*, 1912, 207.

LAWRENCE VEILLER.

TEN-HOUR DAY. In 1840 the United States Government by statute established ten hours as the normal day's work in navy yards and arsenals. The law was not always regarded. Ten hours is the legal day in several states though contracts for longer hours are usually permitted. See HOURS OF LABOR. **Reference:** Am. Assoc. for Labor Legislation, *Annual Reports*. C. F. G.

TENNESSEE

Sections.—The pioneers who, shortly before the outbreak of the American Revolution, settled upon the Watauga and neighboring streams (1769–1770), and those who later (1779) laid the beginnings of Nashborough (afterward Nashville) upon the Cumberland, were accessible to each other only by long and dangerous routes through Indian country. Hostilities with the natives were bitter and constant—hence the militant characteristics which so long marked the politics and government of Tennessee. Differences in time and manner of settlement reinforced by the yet stronger influences of physical geography, have resulted in a marked sectionalism within the state, which in the course of time has become so well accepted that the constitution and laws now definitely recognize the three "grand divisions" of East, Middle, and West Tennessee. Until 1834, there were first two, then three treasurers; even now the supreme court sits in three different places successively, there are three state hospitals for the insane, and recently provision has been made for three state normal schools. This sectionalism has constituted the basis of much of the political history of the state.

Admission to the Union.—Before the mother state, North Carolina, completely extended her jurisdiction over the western settlements, the people at Watauga and those at Nashborough on the Cumberland had adopted governmental agreements of no little interest to the student of institutional beginnings. Of greater importance, however, was the endeavor of the East Tennessee counties to form, in 1784, the independent state of Franklin (*see*). But North Carolina (*see*), which in this year had acceded to the request of Congress for a cession of her western lands, soon took back her gift

and maintained her jurisdiction until 1789 when she again ceded the Tennessee country to the United States (*see* CESSIONS BY STATES TO FEDERAL GOVERNMENT). In 1790, Congress established the territory south of the River Ohio with a form of government like that of the Northwest Territory, except that the prohibition of slavery was markedly absent. In 1796, in spite of dilatory partisan tactics on the part of the Federalists, Tennessee was admitted to statehood.

Constitution of 1796.—The Tennessee constitution of 1796, in general like that of North Carolina, differed in that the election of the governor was given to the people instead of to the Assembly. The legislature moreover was specifically vested with the power to erect courts. In both the executive and legislative branches the possession of a considerable amount of land was a necessary qualification for office. Perhaps unique in the history of taxation in the United States was the inclusion in the constitution of 1796 of a provision which limited the taxation of land to a specific tax upon the hundred acres, without regard to location. This provision, favorable to the speculators in land, aroused an increasing disapproval. There was also dissatisfaction with the judiciary and some demand for a wider suffrage. The pursuits of the state were from the first predominantly agricultural. County government was in the hands of justices of the peace appointed by the legislatures and commissioned by the governor. There was a long standing quarrel with North Carolina over the granting of titles to lands, which involved also the rights of the United States.

Constitution of 1834. The new constitution, adopted by a convention in 1834, exhibited important changes. The supreme court was con-

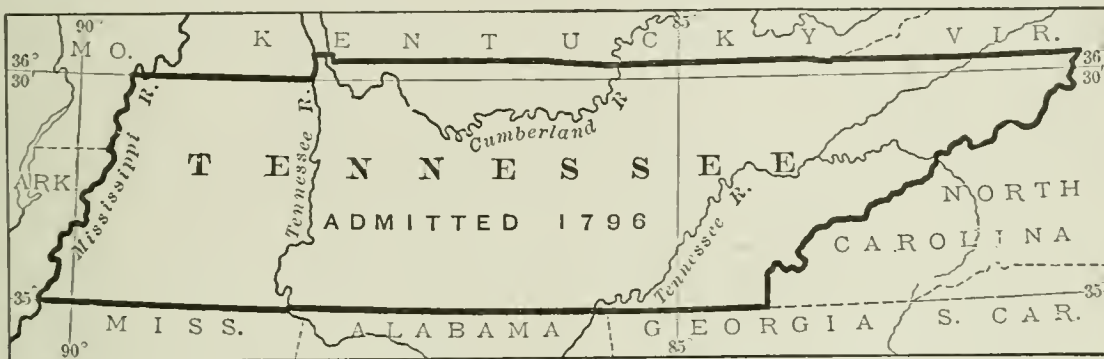
stitutionally established, but popular election of its judges was not attained until 1853. The suffrage was now deliberately limited to white men, but without the requirement of a freehold. The property qualifications for governor, senators and representatives were removed. The obnoxious clause as to land taxation was eliminated, and the way paved for a general property tax. Encouragement was pledged to education and to internal improvement. Both county justices and sheriffs were to be popularly elected.

Party Controversies: Secession.—Politics ran high. The state was the battleground of conflicting southern and western tendencies, and the middle and especially the western part gradually drew closer, both in finance and in politics, to the cotton states. Slavery prevailed, but East Tennessee was the home of a strong anti-slavery sentiment. Nullification (*see*) was disapproved and devotion to the Union was professed by both Whigs and Demo-

crats, which parties, from the time of Van Buren until the eve of the Civil War, were closely matched. As the Whig party broke up, the elections of 1857 and 1859 went to the Democrats. Governor Isham G. Harris strongly sympathized with the secessionist movement. This course was at first not approved by the electorate. In 1860 a proposal for a convention was defeated. But after the attack on Sumter, party lines were obliterated and "separation" was carried over "no separation" by a vote of approximately 105,000 to 47,000. Of the latter vote, 33,000 came from East Tennessee where Andrew Johnson was a tower of strength, and where now the people, firmly attached to the Union, gravely considered the erection of a new and separate state.

as governor, were the disfranchisement of practically all who had not been consistent unionists, and the domination of the state by East Tennessee. The first attempt at federal recognition of the civil government failed through entanglement with the conflict between the presidential and the congressional plans of reconstruction. However, on the ratification by the Brownlow régime of the Fourteenth Amendment (*see*) to the Federal Constitution, Congress, on July 1, 1866, admitted to their seats the unionist Senators and Representatives from Tennessee.

Constitution of 1870.—Later, out of a split which developed in the radical ranks, through the election of Brownlow to the Senate, came the opportunity for the Democrats to regain control of the government and to remove the discriminations against former Confederates. Under these auspices a convention assembled in 1870 to frame and submit to the voters a new constitution. Negro suffrage was



BOUNDARIES OF THE STATE OF TENNESSEE

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Reconstruction.—In 1862, after Union victories, Andrew Johnson was appointed military governor by President Lincoln, and the Unionists sought the restoration of Tennessee to her place in the National Government. In 1865 a convention, irregularly assembled, abolished slavery, declared the nullity of secession, and vested the legislature with power to fix the terms of suffrage. The results under William G. ("Parson") Brownlow, Johnson's successor

retained. Otherwise, changes in the form of government were surprisingly moderate.

Party Conditions.—Since the restoration of 1870, the Democratic party has been, with important exceptions, predominant in the political control of the government. Through strife between Democratic factions over a just settlement of the enormous state debt, a Republican governor was elected in 1880. Again, from 1890 to 1895 the People's party helped divide the Democrats; and in 1894 the Republican candidate had upon the face of the returns a small plurality. The Democratic candidate, however, contested the election before the legislature, with success. Recently the Democratic party again split over the issue of state wide prohibition. This quarrel, together with strong personal rivalries, resulted in a fusion between the Republicans and the prohibition Democrats, and in the election in 1910 of a Republican governor, since reelected. But the vote of the state in federal elections—though often by very moderate majorities—has been uniformly Democratic.

Present Constitution.—The present constitution of Tennessee provides for its own amendment by the action of successive legislatures (a two-thirds vote being required in the sec-

and legislature) with a referendum, but forbids the proposal of amendments oftener than once in six years. The legislature may, however, at any time submit to popular vote the calling of a convention to alter the constitution. In spite of agitation at various times, no change has been made since 1870.

The plan of representation in the assembly (bicameral, elected for two years) provides for the apportionment of senators and representatives among counties or districts according to the number of qualified voters, with some technical limitations upon the application of this principle. The existence of "floater" districts for representatives gives added opportunity for gerrymandering. The governor is elected for two years. He has (only since 1870) a veto which may be overridden by a majority of those elected to each house. The governor may call out the militia only upon the declaration of the assembly that the public safety requires it: but practical necessity has led to a palpably evasive statute creating the "state guard" for "purely domestic purposes," an "army of Tennessee" under the governor's control. The judges are elected by the people for eight years. The supreme court chooses the "attorney general and reporter" and elects its clerks. In the lower courts, equity cases come before chancellors, each of whom appoints a clerk and master, while other clerks of courts are elected. The legislature is given power to vest such powers in the courts as to private or local affairs as may be deemed expedient.

Local government is based upon the county. The provisions for the division or erection of counties (originating in 1796) are very detailed. Counties are divided into districts, in which justices of the peace and constables are elected. The justices elect coroners and rangers. The sheriff, trustee (treasurer) and register are elected by the people of the county.

No corporation may be erected or its powers increased or diminished by special laws; but general laws for this purpose may be altered or repealed. In the application of this, evasion has been practised by the use of factitious general classifications which really affect only a single city or county. The credit of the state may not be loaned or given, nor may the state be a shareholder in any bank, association or corporation. The credit of the counties and cities may be given or loaned only upon assent of three-fourths of the qualified voters. All property is to be taxed, and the suffrage may be made dependent upon the payment of a poll tax. The phrasing of the clauses as to the taxation of property has made difficult the laying of special assessments and has otherwise stood in the way of tax reform. The present system includes a general property tax supplemented by taxes on privileges and on corporations, and a collateral inheritance tax.

In regard to legislation it may be noted that the election laws provide for the use of the

Australian ballot of the "Massachusetts" type (*see* BALLOT) in the larger counties only. In recent years legislation as to primary elections has made some advance and voluntary primaries for the direct nomination of United States Senators have occasionally been employed. State wide prohibition exists by law, but enforcement is difficult through the lack of support in the cities. The educational system has recently made great advance and improvements in the laws as to employer's liability and child labor have been agitated.

There is a rising demand for general constitutional revision, with particular emphasis upon the unsatisfactoriness of the county courts, the evils of the fee system for county officers, the inequalities and difficulties of taxation, the interference of the assembly in local matters, and the lack of centralization in administration.

Population.—In 1790 the population of the state was 35,691; in 1800, 105,602; in 1860, 1,109,801; in 1870, 1,258,520; in 1900, 2,020,616; in 1910, 2,184,789.

See CONSTITUTIONS, STATE. CHARACTERISTICS OF; STATE GOVERNMENTS, CHARACTERISTICS OF.

References: J. W. Caldwell, *Studies in the Constitutional Hist. of Tennessee* (2d ed., 1907); E. T. Sanford, "The Constitutional Convention of 1776" in Tennessee Bar Association, *Proceedings* (1896); J. Phelan, *Hist. of Tennessee* (1888); W. R. Garrett and A. V. Goodpasture, *Hist. of Tennessee* (1900); G. F. Milton, *Constitution of Tennessee, Considered with Reference to the Constitution of other States* (1897); R. E. Manogue, *Why Tennessee Needs a New Constitution* (1897); F. N. Thorpe, *Federal and State Constitutions* (1909), VI, 3408-3473.

ST. GEORGE L. SIOUSSAT.

TENNIS CABINET. A term applied by the newspaper press to the personal friends of President Roosevelt, some of whom played tennis with him, and with whom he was supposed to have had special confidential relations, even to the extent of conference on important public questions.

O. C. H.

TENURE OF OFFICE. All elective officers are chosen for a definite term fixed by law, and are in general irremovable except for grave offenses which would justify impeachment or removal through executive action. Usually the law imposes no limit upon reelection. Appointive officers may be chosen to serve: (a) during good behavior, in which case the appointing power cannot remove them; or (b) during the pleasure of the appointing power; or (c) for a definite term fixed by law. The actual hold which an officer has on his office is affected by several factors: (1) The protection afforded by the law is of varying efficiency. Officers elected for a definite term are generally secure during that term, but at-

tempts to protect appointive officers from removal by the power that appointed them have usually failed. (2) The fact that practically all officers in the United States receive a salary has created a class, now comprising several hundred thousand persons, to whom political activity and office-holding are the chief means of livelihood. Among these persons the competition for office is strong and leads to frequent changes. (3) Those in power try to strengthen themselves by means of the patronage at their disposal. In spite of the increasing strength of the merit system (*see*), the power of appointment is still largely used for promoting political fortunes. In order to make the weapon effective, as large a number of persons as possible must be given appointments, even if for but a brief term, and this necessitates frequent changes. (4) The principle of rotation (*see*) in office still finds wide acceptance. When this is the case, the fact that a man has held an office for one or two terms is sufficient reason for expecting him to make way for some one else. This is especially true of officers representing districts which comprise two or more towns or counties. Local leaders make more or less open bargains as to the order in which they will enjoy a particular office. It is this principle of rotation in office which leads Mr. Bryce to remark, "Uneasy lies the head of an ambitious Congressman, for the chances are almost even that he will lose his seat at the next election" (*see* CONGRESS; HOUSE OF REPRESENTATIVES). (5) Various customs which have almost the force of law have an important bearing on certain officers' tenure. Thus Washington established the precedent which limits the President to two terms, and a similar custom obtains with reference to the governors in several states. By custom, also, the members of the Cabinet (*see*) resign when the President who appointed them goes out of office. In several states a judge who has served satisfactorily is reelected without opposition: in Massachusetts the higher state officers except the governor and lieutenant-governor are usually unopposed for their party's nomination so long as they care to serve. (6) The recall (*see*), now being widely adopted, has not yet been tested sufficiently to determine what its effect will be on official tenure. Its mere existence, however, is notice to the office holder that a change in public sentiment, whether well founded or not, may bring his official career to an abrupt end. *See* PENSIONS; REMOVAL OF PUBLIC OFFICIALS; RETIREMENT OF JUDGES; ROTATION IN OFFICE; TERMS OF PUBLIC OFFICERS. References: J. Bryce, *Am. Commonwealth* (4th ed., 1910), II, ch. lvii, lkv; A. B. Hart, *Actual Government* (rev. ed., 1908), 285-288; F. J. Goodnow, *Comparative Administrative Law* (1897), II, bk. IV, ch. vi; F. W. Whitridge, "Rotation in Office" in *Pol. Sci. Quart.*, IV (1889), 279.

LAWRENCE B. EVANS.

TENURE OF OFFICE ACT. By an act of May 15, 1820, Congress provided that certain officers, such as district attorneys and collectors of customs, should be appointed for a term of four years. The title, Tenure of Office Act, is commonly applied, however, to the act passed in 1867. The bill, after passing Congress, was vetoed by President Johnson (*see*), but was passed over his veto, March 2. It provided that any person holding any civil office to which he had been appointed with the advice and consent of the Senate was to hold office until a successor was in like manner appointed; that members of the Cabinet were to hold their office during the term of the President appointing them and one month thereafter; that when any officer thus appointed, except judges, should during the recess of the Senate be shown to the President to be guilty of misconduct or incapable of performing his duties, the President might suspend such officer and designate another person to perform the duties of the office until the next meeting of the Senate and until the Senate should act upon the case; that the Senate might concur in such suspensions or refuse to concur, and in case of refusal the suspended officers should immediately resume the functions of the office. The act also included other provisions of less importance. It was intended as a means of curbing the power of President Johnson, and his disregard of the act by the removal of Secretary Stanton was one of the grounds given for impeaching the President. The act was materially altered in 1869, and large portions of it were repealed in 1887. *See* IMPEACHMENT; TENURE OF OFFICE; TERMS OF PUBLIC OFFICERS. References: *Statutes at Large*, III, 582, XIV, 430, XVI, 6, XXIV, 500. A. C. McL.

TERMS OF PUBLIC OFFICERS. General and Historical.—American constitutional and administrative law provides for definite terms for all elective officials. Appointive officers are usually commissioned for definite terms, if the position is important, but many of the lesser officers are appointed for indefinite periods; for example—during the pleasure of the appointing power, for the balance of the term of the appointing official, or until a successor is appointed. Terms are almost invariably short, for the historical and practical reason that frequent elections give opportunity for popular control of officials, and for the further reason that American democracy of the nineteenth century insisted upon rapid rotation in office (*see*). In colonial times the people showed their attachment to the short term by choosing for one year practically all officials whose terms they could control. Colonial officials who were selected by English representatives, including most of the colonial governors and judges, held office during the pleasure of the appointive power. When the colonies separated from Great Britain, the short term

TERRITORIAL JURISDICTION OF THE UNITED STATES

TERMS OF STATE AND LOCAL OFFICIALS

(Years)

State	Legislature		Governor	Judges Highest State Court	County Officials (Ordinary Terms)
	Senate	Lower House			
Alabama	4	4	4	6	2:4
Arizona	2	2	2	6	2:4
Arkansas	4	2	2	6	2:4
California	4	2	4	12	4
Colorado	4	2	2	10	2:4
Connecticut	2	2	2	8	4
Delaware	4	2	4	12	2:4
Florida	4	2	4	6	2:4
Georgia	4	2	4	6	2:3
Idaho	2	2	2	6	2
Illinois	4	2	4	9	3:4
Indiana	4	2	4	6	2
Iowa	4	2	2	6	2:3
Kansas	4	2	2	6	2:3
Kentucky	4	2	4	6	4
Louisiana	4	4	4	12	4
Maine	4	2	2	6	2
Maryland	4	2	4	15	2
Massachusetts	1	1	1	1	3
Michigan	2	2	2	8	2
Minnesota	4	2	2	6	2:4
Mississippi	4	4	4	9	4
Missouri	4	2	4	10	4
Montana	4	2	4	6	2:6
Nebraska	2	2	2	6	2
Nevada	4	2	4	6	2:4
New Hampshire	2	2	2	2	2
New Jersey	3	1	3	7	3
New Mexico	4	2	4	8	4
New York	2	1	2	14	3
North Carolina	2	2	4	8	2
North Dakota	4	2	2	6	2:4
Ohio	2	2	2	6	2
Oklahoma	4	2	4	6	2
Oregon	4	2	4	6	2:4
Pennsylvania	4	2	4	21	4
Rhode Island	1	1	1	3	3
South Carolina	2	2	2	8	2
South Dakota	2	2	2	6	2
Tennessee	2	2	2	8	2:4
Texas	4	2	2	6	2
Utah	4	2	4	6	2
Vermont	2	2	2	2	2
Virginia	4	2	4	12	4
Washington	4	2	4	6	2
W. Virginia	4	2	4	12	4
Wisconsin	4	2	2	10	1:2
Wyoming	4	2	4	4	2:4

¹ Good behavior.

² Until 70 years of age.

³ Until removed by legislature.

was continued for members of the lower house of the legislature, and one year was the term for six of the ten senates and for all but three of the thirteen governors. Judges were usually selected for good behavior. In the period from the Revolutionary War to the War for the Union, judges were brought under the rule that democracy demanded short terms, but the short terms for the legislators gave place to longer terms for senators, although in 1850 four states still elected their senators annually, and one half of the states had annual elections of representatives. In that year, one-third of the states chose their governors for a four year term.

Terms at Present.—An examination of the tables below shows that the reaction against very short terms for state officials did not cease with the Civil War, for now four year terms

are most common for governor, four years has become the rule for senators, and almost without exception two years is the term of members of the lower house. Terms for state judges and for county officers are longer than they were a half century ago, while for city officials longer terms have been looked upon with greater favor during recent years, four years being more common than two years in the larger cities, except for the office of mayor. Appointive state and local officers usually have the same term as the official by whom they were chosen, although their commissions frequently do not state their term of office. The terms of most national officials have remained unchanged since the adoption of the Constitution. The four years' term for the President, then considered dangerously long, is now the ordinary term of the state governors. The national Senators have now, as then, the longest legislative term, six years. The national Representatives are chosen for two years. National judges are appointed for good behavior (the only national appointive officials whose terms are prescribed by the Constitution), their long term making them more independent than the state judges. Foreign representatives, members of the Cabinet and other national appointive political officers hold their positions for indefinite terms unless the statute creating the office states the term. The actual tenure of these officials and of state and locally appointed officers depend on the power of removal vested in the chief executive.

See APPOINTMENTS TO OFFICE; CIVIL SERVICE; INFERIOR OFFICERS; OFFICE; OFFICERS. MILITARY AND NAVAL; REMOVAL OF PUBLIC OFFICIALS; TENURE OF OFFICE.

References: R. L. Ashley, *Am. Federal State* (rev. ed., 1911), 610-616; F. N. Thorpe, *Constitutional Hist. of Am. People* (1898), II, 409-421. R. L. ASHLEY.

TERRITORIAL JURISDICTION OF THE UNITED STATES WITHIN THE STATES.

The United States has full jurisdiction within the states with reference to all matters of federal concern. Over certain areas within the states it has, however, exclusive political authority. This is provided for in the clause of the Constitution which, after granting to Congress exclusive legislative authority in all cases whatsoever in the district to be selected as the seat of the national Government, goes on to declare that it shall

exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dockyards, and other needful buildings (Art. I, Sec. viii, ¶ 17).

The exclusive political jurisdiction thus provided for is to be clearly distinguished from the proprietary rights which the Federal Government may have over lands purchased by it or obtained by the right of eminent domain (*see*)

TERRITORIES OF THE UNITED STATES, ORGANIZED

without the consent of the state wherein they are situated being asked or given. Such lands being the property of the United States may not be taxed by the states, nor may the use of them or of the buildings erected upon them in any way so controlled by the states as to interfere with the public purpose for which they are held and employed by the Federal Government. But in all other respects the political authority over them by the states within which they are situated is complete. The writs of the state courts may be served in or upon them, and acts committed therein or hereupon prohibited by the laws of the state are offenses against the peace of that state and may be punished as such. Where, however, the unqualified consent of the state has been obtained the political jurisdiction of the state is completely ousted, and the federal authority exclusive. It would seem, however, that a state may qualify its consent to the taking into possession by the Federal Government of tracts of land situated within its borders, and may reserve to itself the right of jurisdiction with reference to specific matters.

The general extent and character of the federal jurisdiction over these interstate areas is discussed by the Supreme Court in the cases of *Fort Leavenworth R. R. Co. vs. Lowe* (114 U. S. 525), *Kohl vs. United States* (91 U. S. 367), and *Van Brocklin vs. Tennessee* (117 U. S. 151).

Whether the Federal Government may, by an exercise of its rights of eminent domain, take for its own use property already employed for a public purpose by a state, may be doubted. It would, however, seem certain that the court

would permit this to be done only in cases where the federal need is imperative, and one that may be met only by the appropriation of that particular piece of property. Such an occasion has never arisen and the probability of its ever arising in the future is not great.

With reference to the jurisdiction of the United States within the states a word needs to be said regarding the status of the Indians. Primarily the federal authority over these dependent peoples is personal rather than territorial, but where definite areas, known as reservations, are set aside for occupancy by the Indians, the federal jurisdiction is territorial and exclusive (*Worcester vs. Georgia*, 6 Peters 515). But it is to be repeated that the federal authority follows the Indians everywhere outside of these reservations, and within the United States. Thus it has been held that Congress has the power to forbid the sale of liquor to an Indian no matter where he is. "The locality of the traffic," it was declared, "can have nothing to do with this power. The right to exercise it with reference to an Indian tribe or any person who is a member of such a tribe, is absolute, without reference to the locality of the traffic, or the locality of the tribe, or of the member of the tribe with whom it is carried on" (*United States vs. Holliday*, 3 Wallace 407).

See INDIAN POLICY OF UNITED STATES; INDIAN RESERVATIONS.

References: D. K. Watson, *Constitution of the U. S.* (1910); W. W. Willoughby, *Constitutional Law of the U. S.* (1910); T. M. Cooley, *Principles of Constitutional Law* (3d ed.; 1898); 102-104. W. W. WILLOUGHBY.

TERRITORIES OF THE UNITED STATES, ORGANIZED

Definition.—The term organized territory of the United States is applied to certain divisions of the national domain which have been given a form of partial self-government of a definite type. They are distinguished on the one hand from the "unorganized territories," which are controlled directly by the federal legislature and executive; and on the other hand from those other dependencies of the United States, which, although possessing an organized government, do not conform to the accepted territorial type. The term "territories" is sometimes employed to include all the dependencies of the United States, but used without qualification it normally has reference to the organized territories and, as usually understood, it also implies the idea of a state in the making.

Present Restriction of the Term.—The federal Union is now in large measure composed of states which have come up from the territorial status. New Mexico and Arizona, which

passed into statehood in 1912, were the last remaining territories organized from the contiguous domain of the United States; so that the Union now embraces the entire continental territory of the United States except Alaska, which is an organized territory, and the District of Columbia, which had indeed for a brief period (1871-1874) a territorial form of government, but is now governed under acts of Congress through a commission appointed by the President. The form of government which has come to be known as territorial now exists only in Hawaii, since Porto Rico and the Philippines are not, strictly speaking, territories, and the other dependencies, Tutuila, Guam, the Pacific islands and the Canal Zone, remain without government of an organized sort.

Northwest Territory.—The first definite legislation for the government of the common territorial possessions of the United States was an ordinance drawn up by Thomas Jefferson,

which was adopted by the Congress of the Confederation on April 23, 1784, but never went into operation. Instead, on July 13, 1787, was adopted the more definite territorial instrument, "The Ordinance for the Government of the Territory of the United States North-West of the River Ohio," which laid down the fundamental lines on which the government of all the territories since that time has been based (*see* ORDINANCE OF 1787). The Ordinance provided first for a temporary government of the territory through a governor, a secretary, and three judges appointed by Congress, the governor and judges having a qualified legislative power; but this mode was to give place, as soon as there were five thousand free male inhabitants of full age in the territory, to a more permanent form of government, which should include a house of representatives and an appointed council. At this stage the territory might send a representative to Congress, who should have the right of debating but not of voting. A few of the earlier territories were governed for a time by the first method, but the majority of them were organized at once into the second, the legislative, form. The Ordinance further set forth as the fixed policy of the nation toward its dependent territory the promise of ultimate admission of the territories into full fellowship in the Union, a policy which had been adopted by Congress as early as October 10, 1780. The Ordinance contained two other notable features: (1) a bill of rights such as found place in most of the state constitutions of the period; (2) a provision that neither slavery nor involuntary servitude should ever exist in the territory. Eventually the question whether Congress might constitutionally prohibit slavery in the territories became the subject of great political contests between the pro-slavery and anti-slavery forces, a controversy which reached an acute stage in connection with the Kansas-Nebraska Bill (*see*).

Under the Constitution.—When the new government was organized under the Constitution, which provided only in general terms that new states might be admitted by Congress into the Union, and that Congress should have power to dispose of and make all needful rules and regulations respecting the territory or other property of the United States (Art. IV, Sec. iii, "1, 2"), it was deemed necessary to "adapt" the Ordinance to the Constitution by giving to the President, with the advice and consent of the Senate, the appointing power which had previously reposed in the old Congress. In the organization of the earlier territories Congress did little more, so far as concerned the general scheme of government, than merely to apply the Ordinance bodily to the territory or substantially to reenact its provisions. On May 26, 1790, for instance, Congress created "The Territory of the United States South of the River Ohio," the principal

part of which shortly afterward became the state of Tennessee, applying to it the Northwest Ordinance, except the provision concerning slavery, an exception later made for the other territories organized in the southern part of the national domain. During half a century, in fact, Congress was working out the details of the territorial system; during the last three quarters of a century the system has been fairly uniform and constant.

Normal Organization.—This territorial government has usually consisted of a governor, a secretary, a legislature of two houses, and a system of territorial courts. In the territories of Orleans (1804) and Florida (1822) authority was at first vested in a governor and a legislative council of thirteen, appointed by the President; but this autocratic form of government shortly gave place to one of the normal type. The governor is appointed by the President, with the advice and consent of the Senate, for a term of four years and has much the same powers as pertain to the governor of one of the states. That is, he enforces the laws, may grant pardons for offenses against the laws of the territory and reprieves for offenses against the laws of the United States, until the decision of the President can be made known; is commander-in-chief of the territorial militia, and is usually, also, superintendent of Indian affairs. He has the veto power over legislation, although in most of the territories his veto may be overruled by a two-thirds vote of both houses. The principal duties of the secretary, who is similarly appointed, are to keep the territorial records and transmit copies of them to the President and to certain other officials, but he also acts as governor in case of the latter's death, removal, or other necessary absence.

The territorial legislature comprises a legislative council and a house of representatives, both (since 1836) elected by the qualified voters of the territory and having the same qualifications as the voters. The numbers composing each house and the terms for which they were elected have varied considerably from time to time; but in later years the council has been limited, in most of the territories, to twelve and the house to twenty-four members, and both houses are elected for a term of two years. The legislature is, moreover, limited to biennial sessions of a duration not exceeding sixty days.

Functions of the Territories.—The legislative power of the territory extends to "all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States" or with the act by which the territory is organized. The organic act itself usually places certain restrictions upon the territorial legislature, and these restrictions tend to become more numerous and more specific. For example, there are limitations upon the authority of the territory to contract debts, as also

upon territorial expenditures. Furthermore any act of the territorial legislature is subject to the disapproval of Congress, and occasionally Congress has exercised this power, notably in the case of Utah. Another kind of limitation is the retention by Congress of control over the Indian reservations within the territorial boundaries.

Make-up of the Government.—The qualifications for the electoral franchise have been prescribed in the first instance by the organic act, but thereafter subject to regulation by the territorial legislature. The Northwest Ordinance prescribed rather high property qualifications both for office holding and for the suffrage; but in the early part of the nineteenth century these restrictions were gradually swept away.

The judicial system of the territories includes a supreme court, consisting of a chief justice and two or more associate justices appointed for a term of four years by the President, with the consent of the Senate; and district courts, composed of the same justices sitting separately. From the district court appeals lie to the supreme court of the territory and from the latter to the Supreme Court of the United States. The jurisdiction of the several courts is in the main left to the determination of the territorial legislature, but jurisdiction in cases arising under the Constitution and laws of the United States and appeals from the supreme court of the territory to the Supreme Court of the United States are regulated by Congress. There are also a prosecuting attorney and a marshal for each territory appointed in the same manner as the other officers.

Relation to the Federal Government.—The law administered is both federal and territorial. The Constitution of the United States and the organic act are the fundamental laws for the territory, and in general all laws of the United States not locally inapplicable have been declared by Congress to be in force in the territories. This declaration that the Constitution and laws of the United States apply to the territories was first formally made in the organic act for New Mexico (1850) and was repeated in subsequent organic acts as well as in the revised statutes of 1874. Whether the "Constitution follows the flag" (*see*) has been a much controverted question, but in the famous "Insular Cases" (*see*), which concerned the acquisitions as a result of the war with Spain, the Supreme Court decided that the Constitution does not apply to new territory unless formally extended to it by Congress.

As the territorial government rests entirely upon congressional enactment the territories have no share in the Federal Government beyond the representation of each territory in Congress by one delegate, who, although he is granted most of the other privileges of mem-

bers of Congress, does not have the right of voting. On the other hand the cost of territorial administration is borne by the Federal Government.

Hawaii.—The government provided for the Hawaiian Islands by the act of April 30, 1900, which created the territory of Hawaii and extended to it the Constitution and laws of the United States, differs in some particulars from that which prevailed in the continental territories. The governor and the secretary, each appointed by the President for a term of four years, must be citizens of the territory, a qualification which had not hitherto been requisite. The upper house of the legislature, called the senate, is composed of fifteen members elected for a term of four years, and the lower, or house of representatives, of thirty members elected for a term of two years. The senatorial elections are arranged in such a way that the terms of only half the members (accurately seven or eight, as the case might be) expire at one time. Senators must, moreover, be thirty years of age and members of the house twenty-five, and both must have resided in the territory three years.

The right of suffrage in Hawaii is more definitely regulated by Congress than was usual in the continental territories. Among the qualifications required is the ability to speak, read, and write either the English or the Hawaiian language. The administrative system is also explicitly determined by Congress, although the principal administrative officers are appointed and may be removed by the governor, with the consent of the territorial senate. The territory has its delegate in Congress, as had the other territories, and its judicial system is also essentially the same. Of local self-government there is practically none, a condition inherited from the highly centralized monarchy and not yet altered.

Change to Statehood.—There are two modes by which territories have become states. In several instances the territory has adopted a constitution and applied to Congress for admission; but the more usual method has been for Congress to take the initial step and pass an "enabling act" authorizing the territory to form a constitution and prescribing provisions which the constitution must contain. Whether a state after its admission may violate these conditions remains an unsettled question. The time and the conditions of admission are nevertheless absolutely in the power of Congress to determine. In theory a territory is entitled to become a state when its population equals that of an average congressional district, but for political and other reasons this principle has been honored almost as much in the breach as in the observance. Despite, however, any derelictions of conduct on the part of Congress, the policy of regarding a territory as merely in the preparation to become a state, and therefore to be trained for statehood

through the largest measure of self-government consistent with the interests of the territory as well as of the nation, lies at the foundation of national history. As regards most or all of the present dependencies political education is still an essential feature of the national policy, but the principle of ultimate admission to the Union is at the present time in abeyance.

See TERRITORY, ACQUIRED, STATUS OF; TERRITORY, CONSTITUTIONAL QUESTIONS OF; TERRITORY SOUTH OF THE OHIO.

References: W. F. Willoughby, *Territories and Dependencies of the U. S.* (1905), chs. i-iii; C. Meyerholz, *Federal Supervision over the Territories of the U. S.* (1908); J. Bryce, *Am. Commonwealth* (4th ed., 1910), I, ch. xlvii; A. B. Hart, *Actual Government* (3d. ed.,

1908), ch. xx, *Foundations of Am. Foreign Policy* (1901), ch. vi; J. A. Woodburn, *Am. Republic* (1903), ch. viii; T. Donaldson, *Public Domain* (2d ed., 1884), 416-464, 1179-1214; W. W. Willoughby, *Am. Constitutional System* (1904), chs. xiii-xiv; H. W. Birké *Constitutional Power of Congress over Territory of the U. S.* (1901); Max Farrand, *Legislation of Congress for the Government of Organized Territories* (1896); Library of Congress, *List of Books Relating to the Government of Dependencies, etc.* (1900); Organic Acts for the Territories of the U. S." in U. S. Senate Docs., 56 Cong., 1 Sess., No. 148 (1900); U. S. Statutes at Large, 1845-1913; *Am. Year Book*, 1910, 207-217, *ibid.*, 1911, 262-270, *ibid.*, 1912, 222-228; bibliography in A. B. Hart, *Manual* (1908), § 154. EDMUND C. BURNETT.

TERRITORY, ACQUIRED, STATUS OF

Original Territory.—The status of newly acquired territory and of its inhabitants has been a subject of discussion from the early days of the government, and has been only partially settled by recent decisions of the Supreme Court.

The status of the land west of the Alleghanies at the time of the formation of the Constitution was determined by the Ordinance of 1787 (*see*), which provided that it should "forever remain a part of this confederacy of the United States of America, subject to the articles of confederation . . . and to all the acts and ordinances of . . . Congress"; and that it should eventually be admitted into the Union as states. These territories were thus clearly made an integral part of the United States. Therefore the revenue clauses of the Constitution which provide that "all duties, imposts and excises shall be uniform throughout the United States," legally applied to them; although, as a matter of fact, it was ten years after the tariff act of 1789 before Congress arranged for the collection of duties in the Northwest Territory. The ordinance specifically granted the inhabitants the rights which, for the most part, are enumerated in the amendments to the Constitution.

Louisiana.—The treaty of 1803 which stipulated for the purchase of Louisiana precipitated an earnest debate in Congress over the whole question of the relation of the United States to new territory; it centered upon the third section of the treaty:

The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States.

The extreme Federalists maintained that the President and Senate could acquire territory

by treaty, and that Congress could legislate for it as for a conquered province; but that neither the treaty power nor Congress could admit such territory as an integral part of the United States. The Republicans regarded Louisiana as a territory to be governed by that clause of the Constitution which states:

Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States.

They pointed out that the treaty itself did not grant full incorporation into the Union of states, but only made a promise which Congress was morally bound to fulfill in due season.

Congress legislated for the cession upon the evident theory that the provisions of the Constitution did not necessarily all apply to Louisiana. It sanctioned the clause of the treaty which gave Spanish and French ships preferential tariff rates in Louisiana ports; and denied the right of jury trial in cases where the Constitution, had it been entirely in force, would have granted it. The inhabitants, were at first given no share in the government, but were placed under the practically unlimited power of officers appointed by the President. In 1805 the rights and privileges secured by the Ordinance of 1787 were extended to the territory of Orleans, which was admitted as the state of Louisiana in 1812.

The remainder of the Louisiana purchase was at first administered solely by appointed officials, and not until 1812 did Congress extend to it the bill of rights of the Ordinance of 1787. In 1820, Missouri, a part of the Louisiana purchase, claimed the right of admission as a state because of the promise of the treaty of 1803, and insisted that any anti-slavery provision, which would place it under a re-

striction to which the other states were not subject, would be an infringement of the spirit of the treaty, which guaranteed admission "according to the principles of the Federal Constitution."

Florida.—Florida was treated substantially like Louisiana. The treaty of 1819 with Spain stated:

The inhabitants . . . shall be incorporated in the Union of the United States as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights and immunities of the citizens of the United States.

Before this treaty went into effect a motion was made in Congress declaring that the principles of the Constitution applied to the territory, but this was voted down on the ground that the constitutional provisions were made applicable to newly acquired territory only by vote of Congress.

When General Jackson, who had been appointed governor with practically absolute power, imprisoned three Spanish officials, the local federal judge issued a writ of habeas corpus for their release. Jackson refused to honor this, for the reason that Congress had not extended the Constitution and the laws to Florida; and he was sustained by Secretary John Quincy Adams and President Monroe.

This arbitrary government did not continue long; in 1822 Congress extended to the territory a number of United States laws and a short bill of rights. In 1838 the inhabitants drew up a constitution and demanded "admission into the Union as one of the United States of America . . . by virtue of the treaty" of 1819. They were not admitted, however, until 1845.

Some of the questions relating to the status of Louisiana and Florida were soon settled by the Supreme Court. Marshall decided (*Sere vs. Pitot*, 1810, 6 *Cranch* 332; and *Am. Insurance Co. vs. Canter*, 1828, 1 *Peters* 511): (1) That the United States had the right to acquire territory either by conquest or treaty; (2) that both from the express grant in the Constitution giving to Congress power "to make all needful rules and regulations" for the territories, and from "the inevitable consequence of the right to acquire and to hold territory . . . we find Congress possessing and exercising absolute and undisputed power of governing and legislating for" the territories; (3) that the treaty promising eventual statehood, "was the supreme law of the land."

A number of points remained unsettled; the possible limitation of Congress, in its power of governing territory, by specific provisions of the Constitution; the right of the inhabitants to the privileges of the Constitution's bill of rights irrespective of grant by treaty or act of Congress; citizenship of the inhabitants independent of treaty stipulation; and the extent to which newly acquired territory is a part of the United States.

Mexican Conquests and Military Government.

—During the Mexican War officers acting under the authority of the President as Commander in Chief administered much of the conquered territory, made laws, levied and collected taxes, and established civil government (*see MILITARY OCCUPATION*). But the Supreme Court decided (*Fleming vs. Page*, 9 *Howard* 603) that although "other nations were bound to regard the country, while our possession continued, as the territory of the United States . . . yet it was not a part of this Union"; and that goods coming from Tampico, Mexico, then under the military control of the United States, came from a foreign country.

Conversely when a part of the United States is occupied by the enemy it is regarded as foreign territory. Castine, Maine, while under the control of the British in the War of 1812, was determined by the Supreme Court (*U. S. vs. Rice*, 4 *Wheaton* 246) to be "under a temporary allegiance to the British Government."

After the treaty of 1848, the military government remained in force in California and New Mexico. The Supreme Court said (*Cross vs. Harrison*, 16 *Howard* 164): "It was rightfully continued after peace was made with Mexico, until Congress legislated otherwise."

The treaty provided that the inhabitants of the ceded territory who did not take measures to preserve their Mexican citizenship, should be "incorporated into the Union of the United States, and be admitted at the proper time (to be judged of by the Congress of the United States) to the enjoyment of all the rights of citizens of the United States, according to the principles of the Constitution." The military government continued until 1850, when Congress admitted California as a state, and organized the rest of the land obtained from Mexico into two territories, with the provision that "the Constitution and laws of the United States are hereby extended over and declared to be in force in said territory."

During the discussion in Congress of these acts, occurred the debate between Webster and Calhoun over the status of newly acquired territories. Webster maintained that the Constitution did not apply to them; "It cannot be extended over anything except over the old states and the new states. . . . The precise question is whether a territory, while it remains in a territorial state, is a part of the United States. I maintain it is not." Calhoun insisted that the Constitution applied at once to California and New Mexico; "Wherever our flag waves," he said, "the Constitution in part goes, not all its provisions certainly, but all its suitable provisions . . . if the Constitution does not go there how are we to have any authority whatever?" Calhoun's view was upheld by Chief Justice Taney in the *Dred Scott Case* (*see*) in 1857; and a modification of it, that the gen-

eral principles of justice embodied in the Constitution are at once in force in all new territory, was maintained by all but one of the judges in the *Insular Cases* (*see*) in 1901.

Alaska.—The treaty admitting Alaska, in 1867, provided that the inhabitants who did not return to Russia within three years should "be admitted to the enjoyment of all the rights, advantages, and immunities of citizens of the United States. . . . Uncivilized tribes will be subject to such laws and regulations as the United States may . . . adopt." The Supreme Court decided in 1905 (*Rassmussen vs. U. S.*, 197 *U. S.* 516) that by this treaty and subsequent congressional legislation Alaska was incorporated into the United States; that the Constitution as a whole was in force within it; and that the inhabitants had a right to jury trial (*see ALASKA*).

Hawaii.—Hawaii was annexed in 1898. "as a part of the territory of the United States" by a joint resolution which provided that until Congress should extend the United States customs laws "the existing customs regulations of the Hawaiian Islands with the United States and other countries shall remain unchanged," and that "the municipal legislation not . . . contrary to the Constitution of the United States . . . shall remain in force." The Supreme Court, however, (*Crossman vs. United States*, 182 *U. S.* 221) decided that duties could not be collected upon imports into the United States from Hawaii after annexation; and (*Hawaii vs. Mankiehi*, 190 *U. S.* 197) that most of the provisions of the Constitution were in force, but not those guaranteeing trial by jury. Two of the majority of the Court held specifically that Hawaii was not incorporated into the United States until the organic act of 1900, which definitely extended to it the Constitution and the laws of the United States, and made citizens of its people.

Cuba, Philippines and Porto Rico.—During and for some time after the war with Spain, much of the conquered territory, including Cuba, was under the military government of the United States. Before cession the military authorities rightfully exercised absolute power, subject only to the restraints of international law; after cession they acted as agents of the United States Government and were controlled by the general principles of the Constitution: they could not legally levy duties between the new territories and the United States (*Dooley vs. U. S.*, 182 *U. S.* 222).

The treaty of 1899 with Spain stated that "the civil rights and political status of the native inhabitants of the territory hereby ceded to the United States shall be determined by Congress." Congress treated the new possessions as mere dependencies, and the Supreme Court, in the *Insular Cases* (*see*) in 1901, decided that, although they were not foreign in the sense of the tariff laws, yet they were not an integral part of the United States, but

merely appertained to it; and that not all of the provisions of the Constitution applied to them.

Incorporation.—From the first acquisition of territory in 1803, the executive and Congress have, for the most part, acted upon the theory that a new possession did not necessarily become at once an integral part of the United States. Congress has passed scores of laws either bringing the new territories and their subdivisions within the revenue limits, or extending to them the provisions of the Constitution. The Supreme Court never passed fully upon this question of the status of new territory until the *Insular Cases*. In these and in *Rassmussen vs. U. S.*, it decided that the Constitution when first put into operation applied to both the states and the territories then within the boundaries of the United States; that new territory might be acquired by treaty, but that it became incorporated as an integral part of the United States only by the express or implied assent of Congress: that when once incorporated, a territory came immediately under the general revenue laws of the United States, and that its inhabitants were entitled to all general privileges of the United States Constitution.

Rights of Inhabitants.—To what constitutional privileges the inhabitants of unincorporated territory are entitled is not clear. The Supreme Court decided that while the fundamental rights "of human liberty are applicable to every provision or status," the applicability of each specific provision of the Constitution must be decided by itself. Trial by jury is not a fundamental right, however (*Hawaii vs. Mankiehi*).

Congress may extend particular provisions of the Constitution by statute. It has granted the Philippines a bill of rights, which is practically identical with that in the Constitution with the exception of the privilege of keeping and bearing arms and of trial by jury.

United States citizenship, in each newly acquired territory up to 1898, has either been granted the inhabitants at once, or promised them by treaty. The inhabitants of unincorporated possessions, however, are not citizens of the United States; but, on the other hand, they are not aliens within the meaning of immigration laws (*Gonzales vs. Williams*, 192 *U. S.* 1); and by act of Congress, June 14, 1902, are entitled to United States passports.

Political privileges, such as the grant of representative government and suffrage, depend in both incorporated and unincorporated territory solely upon the decision of Congress.

Present Status of American Territory.—Porto Rico, the Philippines, Guam, Tutuila and the minor Pacific islands are not complete parts of the United States; they are outside the customs and internal revenue limits. The Constitution in its entirety, and the body of United

States laws do not apply to them except so far as extended by Congress; their inhabitants are not citizens; and they have no promise of eventual statehood.

Porto Rico and the Philippines have forms of government and civil and political rights which were granted by congressional organic acts; but these may be amended or withdrawn at the pleasure of Congress. Guam and Tutuila have no legal rights, but are administered by mere decrees of their naval governors.

Alaska and Hawaii are incorporated within the United States; their inhabitants, except native Indians, are citizens; but they have no guarantee of future statehood.

The United States as a whole is composed of: (1) a union of States; (2) territories incorporated within the United States; (3). dependencies unincorporated.

See ALASKA, ANNEXATION OF; ANNEXATION, DIPLOMATIC PRINCIPLES OF; ANNEXATIONS TO THE UNITED STATES; CITIZENSHIP IN THE UNITED STATES; INTERNATIONAL LAW, PRINCIPLES OF; PEACE, CONCLUSION OF; TERRITORY IN INTERNATIONAL LAW; WAR, INTERNATIONAL RELATIONS OF.

References: W. F. Willoughby, *Territories and Dependencies* (1905), i-iv, vi, ix; S. E. Baldwin, *Am. Judiciary* (1905), ch. xxi; J. A. Woodburn, *Am. Republic* (1903), 362-397; L. S. Rowe, *U. S. and Porto Rico* (1904); W. W. Willoughby, *Constitutional Law of the U. S.* (1910), chs. xviii, xxii-xxxi; J. B. Moore, *Digest of Int. Law* (1906), I, 45-51, 303-339, *ibid*, III, 311-321; H. W. Bikle, *Constitutional Power of Congress over Territories* (1901); A. B. Hart, *Foundations of Am. Foreign Policy* (1901), chs. v, vi; A. P. Morse, "Civil and Political Status of Inhabitants of Ceded Territories" in *Harvard Law Rev.*, XIV, 262; A. H. Howe, *Insular Cases* (1901); Philippine Commission, *Reports* (1901-13); D. S. Jordan, *Imperial Democracy* (1899); R. D. Hunt, "Legal Status of California, 1846-1849," in *Am. Acad. of Pol. Sci., Annals*, XII (1898), 387; D. Y. Thomas, *Military Government in Newly Acquired Territory* (1904); C. F. Randolph, *Law and Policy of Annexation* (1901), P. S. Reinseh, *Colonial Government* (1902); G. C. Lewis, *Government of Dependencies* (1901); A. C. Coolidge, *U. S. as a World Power* (1908), chs. vii, viii; C. E. Magoon, *Law of Civil Government in Territory Subject to Military Occupation* (1902), *Report on the Legal Status of the Territory Annexed to the U. S. in the War with Spain* (1900); *Am. Year Book*, 1910, and year by year; bibliography in A. B. Hart, *Manual* (1908), §§ 153, 163, 178, 201, 218, 219.

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included within the borders of any of the states of the Union. Thus it is in this sense that the Constitution declares that "the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States" (Art. IV, Sec. iii, ¶ 2). At the time the Constitution was adopted this related to vast areas of western lands originally belonging to the states and by them transferred to the general government (*see* CESSIONS BY STATES TO FEDERAL GOVERNMENT).

Power of United States to Acquire Territory.

—The constitutional authority of the United States to acquire additional territory has been derived from several sources. First, from the right to admit new states into the Union (Art. IV, Sec. iii, ¶ 1). Recourse to this source is, however, unsatisfactory in that it would seem to limit national authority to the annexation of territory suitable and intended for ultimate admission into the Union as states. Secondly, the right to annex is based upon the treaty and war making powers (Art. I, Sec. viii, ¶ 11, Art. II, Sec. ii, ¶ 2). That these powers include the right to acquire additional territory appeared so plain to Chief Justice Marshall that he did not deem an argument necessary. "The Constitution confers absolutely upon the Government of the Union the power of making war and of making treaties; consequently that government possesses the power of acquiring territory, either by conquest or treaty" (*American Insurance Co. vs. Canter*, 1 *Peters* 511), and this doctrine has been repeatedly affirmed, and without dissent, in subsequent decisions of the Supreme Court. Finally, it is established that territory may be annexed by discovery and occupation, the declaration of annexation taking the form of a congressional statute or joint resolution. Discovery followed by effective occupation is a mode of annexation recognized as valid by international law and practice, and the constitutional authority of the United States is drawn from the fact that its competency in international affairs is, generally speaking, comprehensive. In 1856 the Guano Islands were annexed by simple statute. In 1898 the Hawaiian Islands were declared annexed by a joint resolution of Congress. In 1845 the sovereignty of the United States over Texas was similarly declared by a joint resolution, but in this case the acquired territory was admitted directly into the Union as a state, the authority so to do being derived from the authority to admit new states into the Union. In the *Insular Cases* (*see*) it was held by the Supreme Court that the treaty-making power, though competent to bring foreign territory under American sovereignty, is not competent to "incorporate" such territory into the narrower constitutional body known as the United States. In a broad territorial sense, the United States is thus composed of states and

TERRITORY, CONSTITUTIONAL QUESTIONS OF. Definition.—The term "territory" has in American constitutional law a special meaning, as designating areas beneath the political sovereignty of the United States, but not

territories. These latter are, in turn, with reference to the governments given to them, classified as organized and unorganized; and, since the Insular Cases, with reference to their constitutional status, as incorporated and unincorporated.

Organized Territories.—The term "organized territory" has never received an authoritative and technical definition. Generally speaking, however, territories have been held of this class when they have received governments under which the chief executive and judicial officers are nominated by the President and confirmed by the Senate, and the legislature is locally elected upon a manhood suffrage, and with law-making powers substantially commensurate with those possessed by the legislatures of the states. In the comparatively (1904) recent case of *Binns vs. United States* (194 U. S. 486) the statement was made that Alaska is an organized territory, though it had then no local legislature, the reason given being that the act providing for its civil control speaks of a government "which shall be organized and administered" as thereafter provided. If this view be adopted any territory must be said to be "organized" which enjoys a formal government established by Congress. In a later case, however, (*Rasmussen vs. United States*, 197 U. S. 516) in which an argument was based upon the assertion that Alaska was not an organized territory, the court did not meet the point by the simple observation that, in fact, the territory was organized, but said that incorporation and not organization was the test to be applied. In truth, however, the distinction between organized and unorganized territory is without constitutional importance, for the power of Congress over both classes is the same.

The distinction between incorporated and unincorporated territories is, however, fundamental, the extent of the legislative authority of Congress over the latter being much greater than it is over the former. There is, indeed, no question but that Congress, when legislating for the unincorporated territories, derives its authority from and is limited by the Constitution from which it derives whatever authority it possesses. The only question has been as to which of the limiting provisions of the Constitution are to be held to apply when Congress is legislating for the states, and which when it is enacting laws relating to the territories.

Governments.—As to the form of government which shall be enjoyed by a territory, whether incorporated or unincorporated, there has never been any doubt that the authority of Congress is absolute. There is no constitutional requirement that the government established shall be republican in form, that the principle of the separation of powers shall be applied, or that the local inhabitants shall be given any right of participation in the

establishment or operation of the political machinery by which they are controlled. So, similarly, it lies within the absolute discretion of Congress to determine when a territory shall be incorporated into the United States or admitted into the Union as a state. This general power of control is derived not only from the express grant to Congress (Art. IV. Sec. iii, ¶ 2), but is implied in the right to acquire territory.

The important point is to be observed that the territorial governments established by Congress do not constitute distinct parts of the general governmental machinery of the United States, but exist simply as instrumentalities created by Congress as convenient means through which it may exercise its authority over the territories. These governments thus belong to the same class of administrative agencies as do commissions legislatively created. Hence it follows that territorial courts are not parts of the general judicial system of the United States, and their judges need not be given a tenure of office during good behavior as is constitutionally obligatory in the cases of all federal judges (*American Insurance Co. vs. Canter*, 1 Peters 511).

Presidential Government.—Prior to congressional action providing civil government for an annexed territory, the authority to govern resides in the President of the United States, acting under his authority as commander in chief of the army and navy, or in obedience to the obligation imposed on him to take care that the laws of the United States are faithfully executed. In fulfilling this duty, however, he may not exercise any authority not specifically given to him by the Constitution or by an act of Congress. The presidential government thus maintained may be either military or civil in form. But in either case it is strictly administrative in character, and is subject at any time to be replaced by a government created by an act of Congress.

The difficult constitutional question with reference to the territories is as to the extent of the power of Congress with reference to the civil rights of inhabitants of these areas. In the Insular Cases (*see*) it was held that territory may be annexed without being necessarily incorporated into the United States. The annexation may be by treaty; the incorporation must be by legislative action. Furthermore, it was held in these cases that the various limitations placed by the Constitution upon the exercise by Congress of its various powers, do not apply when that body is legislating for territories which have not been incorporated. This has been specifically determined by the Supreme Court with reference to the requirements that duties, imposts and excises shall be uniform throughout the United States, and that the right of jury trial shall be preserved. The reasoning that has been employed in these cases is, however, sufficient to free Congress, when

dealing with the unincorporated territories, from most, if not all of the other limitations imposed by the Constitution upon its legislative powers. Where, however, a power is absolutely denied to Congress, that body is without that power, whether it be dealing with an unincorporated or an incorporated territory. Specific determinations by the Supreme Court, must be had before lists of those limitations that are absolute and complete denials of authority, and of those that only qualify the exercise of the powers of Congress, can be drawn up with certainty.

See ANNEXATION, DIPLOMATIC PRINCIPLES OF; ANNEXATIONS TO THE UNITED STATES; CITIZENSHIP IN THE UNITED STATES; DRED SCOTT CASE; TERRITORIES OF THE U. S., ORGANIZED; TERRITORY IN INTERNATIONAL LAW.

References: W. W. Willoughby, *Constitutional Law of the U. S.* (1910), I, 196, 320-442; D. K. Watson, *Constitution of the U. S.* (1910), II, 1066, 1255-1281. W. W. WILLOUGHBY.

TERRITORY IN INTERNATIONAL LAW.

Conception of Territory.—Territory is a term used in international law to denote that portion of the earth's surface over which a state exercises sovereignty. Owing to the fact that in popular usage territory is applied only to land, the term "domain" is being more and more substituted for it. As territory, or domain, denotes a portion of the earth's surface, it includes not only land, but the waters appurtenant to it and appropriable by the state, together with the air above them (see AERIAL NAVIGATION). Thus a state has land-territory, or terrestrial domain, water-territory, or fluvial-maritime domain, and aerial territory or domain, over all of which it exercises sovereignty.

Enclaves.—The territory of a state may be integrate (contiguous) or dismembered (non-contiguous). When a portion or the whole of a state is completely surrounded by the territory of another state it is called an enclosure or enclave, as, *e. g.*, Birkenfeld, a part of the Grand Duchy of Oldenburg, is an enclosure of Prussia; San Marino is an enclosure of Italy.

Colonies and dependencies.—A state's colonies are, in international law, as much a part of its territory as is the mother-country itself. When there exist certain peculiar relations between states, as when one is half-sovereign, or dependent upon another, a different status obtains as to territory. Although no general rule can be made to fit all such cases, it would seem that the dependent state frequently has sovereignty over its territories; *e. g.*, Bulgaria, before it became independent, was not Turkish territory although technically Turkey was sovereign (see DEPENDENT STATES). Of recent years new forms of territorial jurisdiction have been devised, the most important of which are colonial protectorates, spheres of influence, and territorial leases.

The colonial protectorate is a temporary and transitory arrangement; it is a step toward colonial incorporation. As against third powers the protecting state generally regards such territory as its own (see PROTECTORATES).

Sphere of Influence.—Spheres of influence, which "disclose rather the desire of acquiring sovereignty than its acquisition," may be created in at least two ways: (1) by international agreements for reciprocal abstention from territorial expansion; (2) by agreements not to alienate territory. Those of the first type are by no means a modern device—examples are, the Treaty of Tordesillas (1493) between Spain and Portugal, and the Russo-American Treaty of 1824. Spheres of the second type, sometimes called, more cautiously, "spheres of interest," have been created, *c. g.*, by those agreements made in 1898 by China with certain European powers by which China, in promising not to alienate certain provinces, was considered to have recognized the paramount interest therein of the country with which the agreement was made. The territory obviously remained Chinese.

Territorial Leases.—A recent form of territorial interest is seen in international leases like the English title to Wei Hai Wei dating from 1898. As these are in effect cessions of territory, leased territories are generally considered to be a part of the territory of the lessee state and it generally administers them as such, as the German Empire does Kiaochau, leased from China in 1898 for 99 years. Pledges of territory by one country to another create a status somewhat similar; as, *e. g.*, the pledge of Corsica to France in 1768.

Condominium.—When two states hold territory jointly the relationship of the states to such territory is called *condominium*. Both countries exercise sovereignty and jurisdiction jointly. Examples of condominium are: Schleswig-Holstein, 1864-1866, under Prussia and Austria; Moresnet under Belgium and Prussia; the Soudan under Great Britain and Egypt (Turkey). Differing from condominium in that the title is in abeyance and the territorial rights are therefore reserved, is joint occupation; such was the status of the Oregon country from 1818 to 1846 under the Anglo-American conventions of 1818 and 1827.

Land-Territory.—Land-territory, or terrestrial domain, comprises not only the surface of the soil but the subsoil and its contents to an indefinite depth, even to the center of the earth. It is the original form of territory, while the water and air domains are derived from, or are appurtenant to, it.

Water-Territory.—The fluvial-maritime domain of a state is appurtenant to the land and includes: (1) waterways, whether lakes, inland seas, rivers, or canals, lying wholly within a single state; (2) waterways which extend beyond the land of one state into that of another; (3) those which lie between states and

form a part of their boundaries, like Lake Erie; (4) the marginal sea, or maritime belt, as contrasted with the open sea; (5) portions of the great oceans and seas more or less enclosed by the land, as, for example, Delaware Bay.

As to those of the first class a state's jurisdiction is exclusive and complete. A state has the right, in the absence of treaty-stipulations to regulate, control, and forbid the use of its national waters, even those which are navigable from the open sea.

As to those of the second class, the common practice of the eighteenth century was for the state to assume exclusive control over the portion of the waterway within its boundaries. Since that time claims to exclusive jurisdiction over international rivers have been surrendered by most states through treaty arrangements, as is the case with the River Danube.

Where, in the third class, rivers form the boundaries between states, the modern rule is that the territory of each state extends to the thalweg, or mid-channel. If inland seas or lakes form part of the boundary, the line follows the middle of the waterway. As far as the boundary line, the jurisdiction of a state over a boundary water is complete.

The marginal sea to a width of at least three marine miles is held a part of the state's territory. Over it a state's jurisdiction is not complete, as modern practice recognizes the right of innocent passage through it by the ships of other countries (see *THREE-MILE LIMIT*).

Whether the area of an enclosed gulf or bay be large or small, if it is completely surrounded by the land-territory of a state, with an entrance not over six miles in width, it is a part of the territory of the state. As to such there is no difference of opinion. Where, however, the entrance is more than six miles in width much depends upon the acquiescence of other states and the ability of the state to appropriate and defend the water-area as its own. Thus the United States has always maintained that Chesapeake and Delaware Bays are a part of its territory, and this claim has not been seriously contested by other states. A state has exclusive rights over such territorial waters as fully as it has over those water-areas not connected with the open sea by navigable outlets (see *BAYS AND GULFS, JURISDICTION OF*).

Aërial Domain.—Many theories have been propounded as to the aërial domain of the state, of which three are the most important. (1) The sovereignty theory is that, as a state's territory extends to the center of the earth, so the atmosphere above its territory, as appurtenant to it, is also territory and subject to the sovereignty of the state which may properly control its use. The aërial domain, according to this theory, extends indefinitely

upward, at least as far as the atmosphere extends. (2) Another theory is that the air is free and therefore as unappropriable as the sea, and that no state can rightfully claim sovereignty over any part of it. The advocates of this theory admit, however, that a state has such rights over the air-space above it as are necessary in war or in peace for its safety and preservation. (3) Such an admission seems logically to lead to the third theory: that the air-zone is comparable to the marginal sea, that a state may exercise such jurisdiction over it as it can enforce, subject to the rights of innocent passage on the part of other states and their nationals. The limits of aërial jurisdiction are as yet indeterminable but within them the air-zone is, like the marginal sea, subject to innocent use and passage, at least in time of peace (see *AERIAL NAVIGATION, REGULATION OF*).

What seems to be a fatal error in the application of the doctrine of harmless use to the air-zone is that it is an argument from a false analogy. The idea of harmless use, as applied to maritime transportation, cannot be modified to fit the dissimilar circumstances of aërial navigation. The advocates of the sovereignty theory seem to have, therefore, the strongest position.

Acquisition of Territory by a State.—This, in modern usage, is synonymous with the extension of a state's exercise of sovereignty, and the means by which this is accomplished are: cession, occupation, accretion, and subjugation, to which may be added prescription, which is, however, a mode of securing rather than of acquiring title to territory.

Cession of territory by one state to another is the transfer of sovereignty over such territory. The terms of such transfer are set forth in treaties of cession, and actual tradition, or delivery, of the territory is not unusual in order to complete the transfer of title. A state acquires territory by occupation when as a state it extends its sovereignty over land (and the waters, if any, appurtenant thereto) not then subject to any other state. Discovery alone gives only an inchoate title, which is to be completed by effective possession: thus occupation, like cession, is a state act. Title by occupation may be lost through abandonment, although the precise lapse of time necessary to extinguish the title is not fixed. The territory becomes again a no man's land (*res nullius*) and subject to occupation by another state as in the case of the guano islands. The territory of a state is extended by accretion when new land is formed, either naturally or artificially, as an extension of already existing land. Islands formed at the mouths of rivers (e. g., at the mouth of the Mississippi) belong to the state which holds the adjoining land.

Subjugation is the mode of extending territory as a result of conquest. Frequently the treaty of peace sets forth the terms of the

transfer, in which case the extension is properly one of cession. When, however, the existence of a state has been ended by war, as was the case of the Transvaal in 1900, its territory is acquired by subjugation. Title is also gained by subjugation if there is no treaty of peace recognizing the transfer of territory and the conquering state permanently holds the territory captured (*uti possidetis*).

See ANNEXATION, DIPLOMATIC PRINCIPLES OF; BAYS AND GULFS, JURISDICTION OF; CONQUEST, RIGHT OF; EXTRATERRITORIALITY; HIGH SEAS; MARE CLAUSUM; MONROE DOCTRINE; NAVIGATION OF INTERNATIONAL RIVERS; PORTS, JURISDICTION IN; SEAL FISHERIES; THREE-MILE LIMIT; TRIBUTARY STATES.

References: L. Oppenheim, *Int. Law* (1905), I, 217-299; J. Westlake, *Int. Law* (1906), I, 84-174, *Principles of Int. Law* (1894), 129-189; H. Bonfils-Fauchille, *Droit Int. Public* (5th ed., 1908), 278-315; T. J. Lawrence, *Principles of Int. Law* (4th ed., 1910), 139-198; J. B. Moore, *Digest of Int. Law* (1906), I, 612-939; E. Nys, *Droit International* (1904), I, 402-532, II, 1-131; C. Calvo, *Droit International* (5th ed., 1896), I, 382-467; E. Von Ullmann, *Völkerrecht* (1908), 287-343; K. F. Heimbürger, *Erwerb der Gebietshoheit* (1888); J. Imbart-Latour, *Mer Territoriale* (1889); J. F. Lycklama à Nijeholt, *Air Sovereignty* (1910); A. Fauchille, *Domaine Aérien* (1901); F. Meili, *Luftschiff in internen Recht und Völkerrecht* (1908); S. E. Baldwin, "Law of the Air-ship" in *Am. Journal Int. Law*, IV (1910); A. K. Kuhn, "Beginnings of an Aerial Law" in *ibid*, 109, 132; bibliography in A. B. Hart, *Manual* (1908), §§ 167, 168, 171, 173.

JESSE S. REEVES.

TERRITORY SOUTH OF THE OHIO. The territory south of the Ohio was the area ceded to the Federal Government by the state of North Carolina early in 1790 and almost immediately thereafter organized as a territory. The people were divided into two groups, those living in the upper Tennessee valley and those who held the country about Nashville, the former led by John Sevier the latter by James Robertson. There was little harmony between either the groups or their leaders. But all were put under one government modelled after that of the territory northwest of the Ohio, except that slavery was not declared to be unlawful. The governor, council, circuit judges, Indian and land agents were appointed by Congress, while the legislature, which met annually, was elected by the people of the territory. The magistrates of the counties were appointed by the governor, and the laws under which the people lived, aside from the clauses of the Northwest Ordinance (*see*) which applied, were those of North Carolina. William Blount, the first governor, held office until the territory became the state of Tennessee in 1796. The population in 1790 was 25,691 and in 1795, 77,262. See MISSISSIPPI; TENNESSEE. References: J. Phelan, *Hist. of Tennessee* (1888); T. Roosevelt, *The Winning of the West* (1889-96).

W. E. D.

TERTIUM QUID. Tertium Quid was the term applied to the faction led by John Randolph, in Jefferson's administration (*see* QUIDS). Such a faction can often be very effective, as seen in the case of the third party in the English Parliament. See RANDOLPH, JOHN. References: J. A. Woodburn, *Pol. Parties* (1909), 136.

T. N. H.

TEXAS

Settlement.—The Anglo-American occupation of Texas began on a permanent basis in 1821, when Stephen F. Austin arrived with the first of three hundred families which the Spanish authorities had granted his father a permit to introduce from the United States. The same year Mexico became independent of Spain, and the republican constitution and the liberal colonization laws which it soon adopted offered such strong attractions to immigrants from the United States that Austin and other *empresarios* (contractors) were able to settle some 25,000 in Texas before the end of 1835. Many immigrants brought slaves, and there were already in the province several thousand Mexicans and a considerable number of Indians. For purposes of general administration Texas was united with Coahuila. In 1836 the colonists revolted from Mexico and established an independent republic.

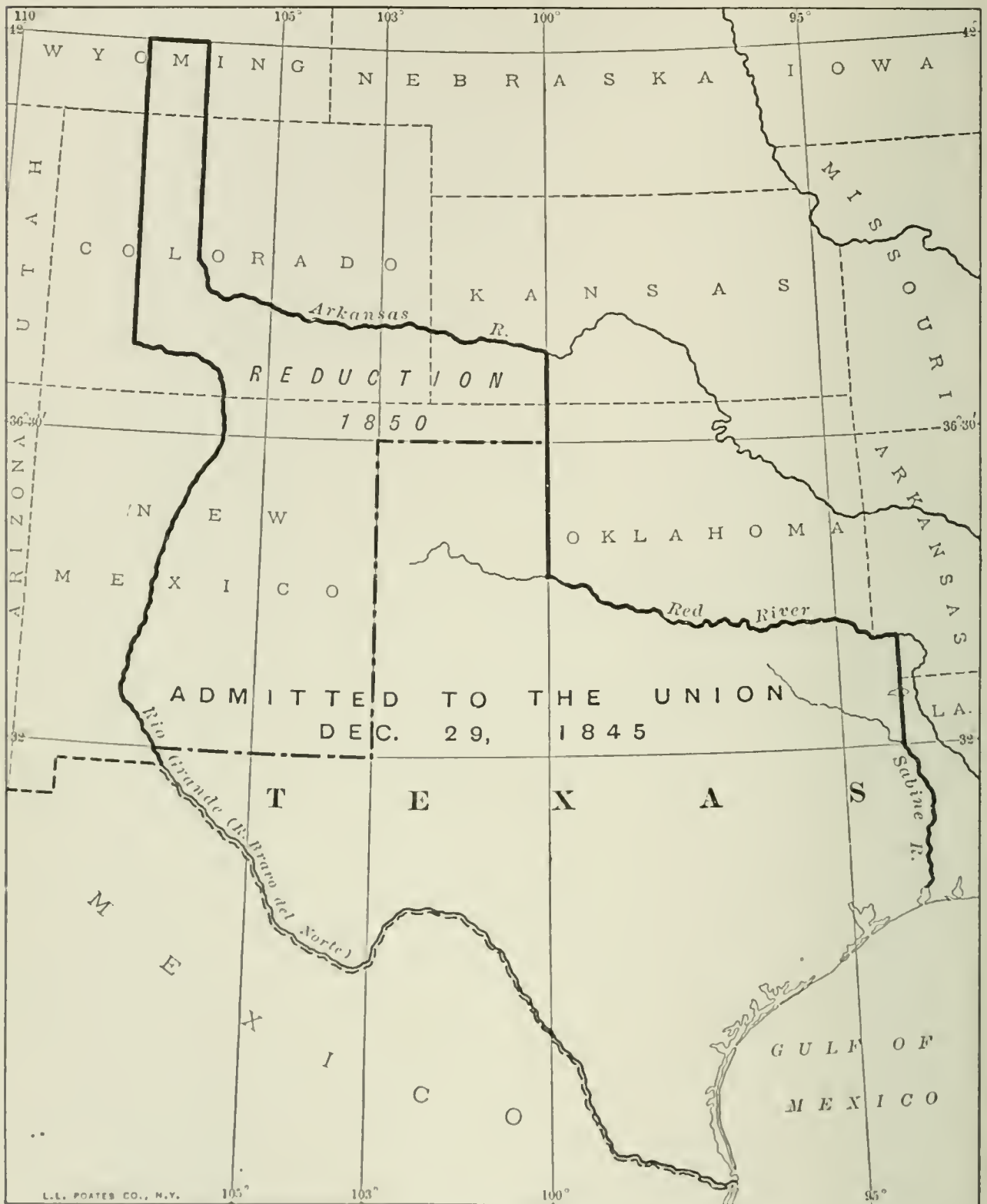
Early Constitutions.—Some of the men who came to Texas during the colonial period lived

to see the state governed successively under eight constitutions. The first of these was the constitution of Coahuila and Texas, adopted by the "congress" (legislature) of the state March 11, 1827. It recognized the customary legislative, executive, and judicial divisions of the government; guaranteed "liberty, security, property and equality" to every inhabitant of the state; proclaimed freedom of speech and press subject to legislative regulation; decreed the establishment of primary schools; provided for gradual abolition of slavery; and forbade the exercise of any but the Roman Catholic religion. The governor and the members of the state and federal congresses were chosen by electors who were themselves elected in primary municipal assemblies. The legislature sat in one house. The judicial system included a supreme court and a number of inferior courts, and recognized arbitration between litigants as a preliminary judicial process.

TEXAS

The second constitution was a provisional instrument adopted November 13, 1835, by an assembly of delegates elected originally for consultative purposes. It was never ratified by

except that, Texas being a unitary state, a division of power between state and federal governments was unnecessary. The reaction against clerical influence expressed itself in



BOUNDARIES OF THE STATE OF TEXAS, SHOWING TERRITORIAL CHANGES

the people and the government which it established was in operation only four months. The third was framed March 17, 1836, by the convention which declared Texas independent. It gave the legislative, executive, and judicial departments the same form and substantially the same functions and reciprocal limitations as their counterparts had in the United States.

the exclusion of clergymen from congress and the presidency and in guaranteeing freedom of religion. But not all Mexican institutions were repudiated, for congress was instructed to introduce the English common law with such modifications as existing local conditions should suggest, and the resultant blending of common law and Spanish (Roman) law

has given to Texas jurisprudence, say lawyers, a peculiar excellence, particularly in rules affecting land and pleading. It was the duty of congress to establish an educational system; and individual freedom was generously safeguarded by a bill of rights, which extended to a prohibition of imprisonment for debt. Slavery was legalized, but the importation of slaves from any country except the United States was forbidden.

Under its fourth constitution which was approved by the Congress of the United States in December, 1845, Texas entered the Union (*see ANNEXATIONS TO THE UNITED STATES*). It differed little from the constitution of 1836 except in so far as was necessary to adapt the government to the federal relation, yet a few distinctive features demand notice. (1) Except in case of specified emergencies, the legislature was restrained from contracting a debt of more than \$100,000. (2) Not less than one-tenth of the annual revenue derivable from taxation was devoted to a permanent fund for the support of free schools, and the legislature was authorized to supplement this by appropriations of land. (3) Since, to its lasting advantage, the state retained its public lands on entering the Union, it was necessary to continue the general land office, established during the republic; this still remains (1913). (4) The legislature was given power to exempt from forced sale the homestead (*see*) of a family, and a man was declared incapable of alienating the homestead without his wife's consent. Thus was given a constitutional sanctity to the justly vaunted homestead law of Texas. A statute to this effect had existed since 1839. The principle was inherited from the Mexican *régime*.

The next three constitutions belong to the period of Civil War and reconstruction (*see*). In February and March, 1861, a convention adopted an ordinance declaring the secession of Texas from the Union and its adhesion to the Southern Confederacy (*see CONFEDERATE STATES*) and amended the constitution to make it conform to the new conditions. The state sought restoration to the Union under the constitution of 1866, which, while recognizing the results of the war, retained as much as possible of the substance of the constitution of 1845-1861. Its application was denied by Congress, and readmission was only effected under the constitution of 1869. By this constitution the government was highly centralized; many of its provisions were irksome to the people, and in 1876 it gave place to the present constitution.

Present Constitution.—In the constitution of 1876 the legislature paid a penalty for the sins of its reconstruction predecessors by suffering a drastic definition of powers, duties, and limitations, more than a fourth of the document being devoted to that end. The maximum membership of the senate and house is fixed

respective at 31 and 150, and there are now (1913) 31 senators and 131 representatives. Senators are elected for four years, one-half retiring biennially; representatives for two years. Reapportionment is required after each federal census.

As originally defined by the constitution the executive department consisted of the governor, lieutenant-governor, secretary of state, comptroller of public accounts, treasurer, commissioner of the general land office, and attorney general. The secretary of state is appointed by the governor; the other officers are elected for two years, and are indefinitely re-eligible, but no governor has been elected for more than two terms. Other officers belonging to the executive department have been created by statute. The more important are a commissioner of insurance and banking, a tax commissioner, a commissioner of agriculture, a superintendent of public instruction and a railroad commission. The first two are appointed by the governor, the others are elected. The commissioner of insurance and banking sees to the execution of the laws "relating to insurance and insurance companies"—both life and fire—and supervises state banks, somewhat as the comptroller of the currency does national banks. He is *ex officio* chairman of a board for fixing fire insurance rates and preventing discrimination. To the tax commissioner is entrusted the evaluation of the intangible properties of certain classes of public service corporations for the purpose of securing taxation thereon. The superintendent of public instruction is "charged with the administration of the school law and a general superintendency of the business relating to the public schools of the State." The railroad commission was created in 1891 by authority of a constitutional amendment adopted the previous year. There are three commissioners. Originally they were appointed by the governor for two years, but in 1894 a constitutional amendment increased their term to six years and made them elective. One retires every two years. Among the commission's powers are the classifying of freight; the fixing of freight and express rates and passenger fares; the control of the issue of railway securities, to prevent over capitalization; and the power to see that all state laws "concerning railroads are enforced and obeyed." It is described as "one of the strongest of the mandatory commissions" now in operation. Its work has been highly beneficial to the state. For fixing the general *ad valorem* rate of taxation there is a board composed of the governor, comptroller, and treasurer, who act under limitations prescribed by the law creating the board.

At the head of the judicial system are the supreme court and the court of criminal appeals, with final appellate jurisdiction respectively in civil and criminal cases. Each is composed of three judges, elected for six years.

Below these are the courts of civil appeals, each with three judges, having appellate civil jurisdiction alone, and the district, county, and justices' courts. All judges are elected, and there is a strong tendency to reelect indefinitely. Jury trial is obligatory in criminal cases, and optional with the parties in civil suits. In the district courts twelve men compose the jury, in the county and justices' courts, six. A unanimous verdict is required.

The constitution makes it the duty of the legislature to provide an "efficient system of public free schools," and appropriates for that purpose a vast quantity of the public lands, a poll tax, and portions of other taxes and revenues, which the legislature may augment. Funds are apportioned to school districts annually on the basis of their scholastic population. Under certain regulations districts may organize independently and vote special taxes to supplement the state apportionment. Instruction is free to all pupils between the age of seven and seventeen. Separate schools are maintained equally for the white and black races. The governor, comptroller, and secretary of state are made by the constitution a state board of education, but the active direction and supervision of the school system is vested by law in the superintendent of public instruction, and he is *ex officio* secretary of the board of education. Above the public schools are the university, the agricultural and mechanical college, and various normal and technical schools, supported by endowments and legislative appropriations.

Elections.—The constitution originally prescribed the usual age and residence qualifications for suffrage, and an amendment in 1902 gave the legislature power to require in addition the payment of a poll tax. Upon this amendment the Terrell election law is based. Its chief aims are to prevent fraudulent practices in elections, and to secure united support of party candidates, at the same time giving the people a direct share in the nomination of those candidates. It goes far toward accomplishing the first by rigidly regulating the payment of poll taxes, the preparation of the ballot, and the conditions under which the ballot is cast. In towns of above 10,000 inhabitants a voter must pay his poll tax in person, and one may not lend or give another money with which to pay it. The second object is gained by requiring parties which cast at the preceding general election 100,000 votes to nominate their candidates by primary elections (*see* PRIMARY, DIRECT). By a party agreement voters in the primary pledge themselves to vote for the party nominees. The law requires candidates to publish their campaign expenses.

Party Conditions. The Democratic platform of 1910 congratulates the party for having "controlled the government of the State for nearly forty years." There is practically no

other party in state politics. In the gubernatorial campaign of 1910 there were 356,566 votes cast in the Democratic primary and 173,993 in the final election, while the Republicans vote in the final was 26,000. In the presidential election of 1900 there were 267,423 Democratic to 130,641 Republican votes, but in 1908 the vote was 217,302 to 65,666. Since 1891 the regulation of corporations has been a leading issue in state policy.

Prohibition by local option has steadily gained during the past decade, and in July, 1911, a constitutional amendment enjoining state wide prohibition was only defeated by a majority of 6,297 in a total vote of 468,489. The most interesting political tendency at present is in local affairs—toward the establishment of commission government in cities and towns.

Population.—In 1850 the population was 212,592; in 1890, 2,235,523; in 1910, 3,896,542.

See COMMISSION SYSTEM OF CITY GOVERNMENT: SOUTH.

References: G. P. Garrison, *Texas* (1903), *Civil Government of Texas* (1899); J. P. Lightfoot, *Terrell Election Law with Annotations* (1910); C. S. Potts, "Railroad Transportation in Texas" in *University of Texas, Bulletin* (1909), No. 119, chs. viii-x; C. W. Raines, *Year Book for Texas, 1901* (1902); C. W. Ramsdell, *Reconstruction in Texas* (1910), chs. i, v, ix; F. N. Thorpe, *Federal and State Constitutions* (1909), VI, 3475-3674. EUGENE C. BARKER.

TEXAS vs. WHITE. After the close of the Civil War and while the only government of the state of Texas was that organized and existing in pursuance of the reconstruction acts of Congress, an original suit was instituted by this government in the Supreme Court of the United States in the name of the state to assert its right to certain bonds issued by the United States to the state in settlement of a boundary dispute, which bonds had been transferred and disposed of by those claiming to act for the state as a member of the so-called Confederacy (1868, 7 Wallace 700). The court held: (1) that the union of the states under the Constitution is indissoluble and that Texas never ceased to be a state of the Union; (2) that under its duty to guarantee to each state a republican form of government (Const., Art. IV, sec. iv) Congress could, in the absence of any duly constituted government of the state, provide for the formation of a government which, when recognized by Congress, was also entitled to recognition by the courts as the lawful government; (3) that the government thus created and recognized might properly institute a suit for the state in the protection of its property rights. The ground taken by three dissenting judges was that the reconstructed

government was not the government of the state and that the state was not for the time being a member of the Union. See RECONSTRUCTION; SECESSION CONTROVERSY; STATE SOVEREIGNTY. E. McC.

TEXTBOOK, CAMPAIGN. See COMMITTEES, PARTY.

TEXTBOOK LAWS. State laws relating to textbooks for the public schools provide for adoption and uniformity by the state, the county, or the city or district. While the laws change from year to year, about 22 states now have state uniformity for the common schools and, in some cases, for the high schools also. About 20 states have district adoption, and a few states have county adoption. Large cities are frequently exempted from these state and county laws, and are permitted to make their own adoptions.

Adoptions are made, according to different laws, by the local or state boards of education or by state textbook commissions. The textbook commissions are created by law, with membership varying from 5 to 11 and made up of certain state officers *ex officio* and other persons appointed by the governor. Not all the laws require such a commission to contain persons expert in education. The period for which adoption is made is in the great majority of states 5 years; variant terms are six, four and three years.

The duties of these adopting bodies include selection of textbooks; their adoption for a fixed period; making contracts with publishers, with stipulations as to prices, distributions and sales, and penalties for violation of contract. California prints and distributes free its own textbooks for use in the common schools. It ordered textbooks prepared at first, but now pays regular publishers a royalty for use of the plates of their books. Illinois, by the law of 1909, licenses publishers to sell their books for use of the public schools of the state, and fixes maximum prices.

The system of free textbooks, by which pupils are furnished their textbooks free of charge, has been adopted in about 12 states for all or nearly all communities; in about 15 other states districts are permitted to adopt the system.

See SCHOOL FINANCE; SCHOOL PROPERTY.

References: Dutton and Snedden, *Administration of Public Education in the United States* (1908), ch. xiii; *Pa. School Jour.*, LVI (May, 1908), 480-483; E. C. Elliott, "State School Systems: Legislation and Judicial Decisions" in U. S. Bureau of Educ., *Bulletin*, 1908, No. 7, 1910, No. 2.

K. C. BABCOCK.

THEOCRACY. Theocracy is a term applied to a state in which the supreme power rests with God or some other superhuman being

and in which those who exercise authority are regarded as merely the agents or viceregents executing the sovereign will. A government merely in accordance with God's will does not in the strict sense of the term, constitute theocracy, for any human form of polity might conform to this principle; nor is it a government in which the sovereign regards himself as the incarnation of God and is worshipped as such, though the term theocratic or religious monarchy may properly be applied to such a polity. The first distinguishing mark is that, whereas in monarchy, aristocracy and democracy the supreme power belongs to men, in a theocracy it belongs to a superhuman being. The second idea is that the civil and political as well as religious and moral institutions are given by the divine being through a legate, prophet or priest and are not subject to human alteration.

The theocratic state belongs to the infancy of the human race, its earliest development taking place in Asia and northern Africa. The king of Iran, about 1000 years B. C., at the time of Zoroaster, the prophet, called himself a priest-king, and the ancient Ethiopians in Meroë had a pure priest-state. The governments of ancient Egypt and India were also mainly theocratic. But the most notable of the ancient theocracies was that of the Jews prior to the kingship. See STATES, CLASSIFICATION OF. References: J. K. Bluntschli, *The Theory of the State* (6th ed., trans., 1885), 322-334; T. S. Woolsey, *Political Science* (1878), I, 495-500; J. W. Garner, *Intro. to Pol. Sci.* (1910), 128-131.

KARL F. GEISER.

THIRD HOUSE. The lobby (*see*) composed of persons who frequent the legislative ante-chambers for the purpose of influencing legislators. O. C. H.

THIRD PARTIES. From the beginning the dual party system has ruled in America, though minor parties have frequently appeared. Twice in our history has the disappearance of a leading party resulted in a period of political confusion, until the normal balance had been restored by the rise of a second strong party. In 1868 only two national parties existed; but four years later three minor parties held conventions and nominated presidential candidates. Since that date from four to seven minor parties have participated in each national election. In all, more than twenty such parties have been organized. After conducting one campaign most of them have vanished; but some have lasted for three or more terms. One only, the Prohibition party, has remained constantly in the field since 1872.

Three main motives give rise to third parties. Many are organized to promote some one reform or to maintain the rights and interests of a particular class, or group, of citizens.

Others are pledged to the correction of alleged abuses or errors, that have perverted a major party. They seek to restore the party to its traditional position. The third group aims more or less directly at the destruction of both the major parties.

Parties of Reform.—The Prohibition party (*see*), the most successful of the parties of reform, maintains its organization in nearly every state. Its public speakers emphasize the evil effects of the liquor traffic, and point out methods for its abolition. Prohibitionist candidates appear on state as well as national tickets, but the vote of the party is relatively small, since it does not receive the support of a majority of the citizens who believe in its aims. Its influence upon the leading parties, however, is often considerable and it wins favor for its measures from one or the other. It is the only party that can work on Sunday without shocking the ordinary citizen. The Greenback party (*see*) opposed the contraction of the currency. Although it elected some governors, members of state legislatures and of Congress, it failed to prevent a return to specie payments in 1879. To its influence, however, was largely due the reissue of greenbacks after their redemption.

The Granger (*see*), Farmers' Alliance (*see*), Antimonopoly and People's, or Populist (*see*) parties, contending for the rights of the producer as against the middleman and organized wealth, have carried state elections and enacted important state laws. Their representatives in Congress have been influential also in carrying laws for the regulation of railways and other forms of monopoly. In 1892, under the leadership of General Weaver the Populists secured twenty-two electoral votes from six states. This is the only instance since the Civil War of the representation of a third party in the electoral college. When the Democratic party, in 1896, adopted nearly all the policies advocated by the Populists, the latter were absorbed by the old party. Had the Democrats not accepted populist doctrines these two parties might have changed places instead of uniting. Later, under Roosevelt's leadership, the Republican party also adopted much of the Populist program. The history of this group of parties admirably illustrates the third party method of forcing a policy upon the chief parties, and the avidity with which these latter seek to absorb a large minor group. Less conspicuous has been the success of the labor parties (*see*): nevertheless their organizations, platforms and candidates have had no small share in securing city, state and national legislation favorable to wage-earners.

Parties of Protest.—A smaller number of parties aim directly at the immediate correction of a policy by one of the ruling parties. In 1864, the Radical Republicans, objecting to the conservative policy of the administration,

held a Radical Republican convention and nominated John C. Frémont for the presidency. He, however, withdrew before the election. The dissatisfaction of many Republicans, in 1872, with the prolonged military rule in the South and the disfranchisement of former Confederates led to an early convention which nominated Horace Greeley for President. Later, the regular Democratic convention accepted both their candidate and their platform; so that Greeley became the regular Democratic nominee. To many Democrats this seemed like wiping their party out of existence; hence, late in the campaign a "Straight-out" (*see*) Democratic convention was held and nominated candidates. A similar convention was held by Democrats in 1896 as a protest against the fusion of Democrats and Populists under Bryan's leadership. Third parties such as these are, in their nature, temporary. They conduct only one campaign and then their members are reabsorbed into the regular parties or pass from public notice.

The Socialist party (*see*) has all the external characteristics of a reform propaganda; but their program is such as involves radical changes in government and industrial organization which would eliminate the party system. To the socialist that system is simply an agency for advancing their cause and gaining control of the state. A few other third parties in recent years have aimed directly at the destruction of the leading parties by appealing to all honest voters. Delegates from forty-four states and two territories met in 1908 and resolved themselves into an "Independent" party (*see*). "Our action," they said, "is based on a determination to wrest the conduct of public affairs from the hands of selfish interests, political tricksters and corrupt bosses." Responsibility for existing evils was laid at the door of the two parties and appeal for support was made to all patriots "irrespective of party." At the ensuing election eighty-three thousand "patriots" cast their vote for the "Independent" nominee, while more than fourteen million expressed preference for the ruling parties.

The most successful third party of this class was the Progressive party (*see*) formed in 1912, in protest against the methods of the Republican national committee, representing the regular and "stand-pat" wing of the party, in deciding contests between rival delegations pledged to President Taft and Theodore Roosevelt. The Taft delegations were seated in almost every case and in the national convention President Taft was nominated for a second term on the first ballot. The Roosevelt faction, which represented the progressive wing of the party, claimed that the nomination of President Taft had been secured by fraud; and immediately after the close of the Republican national convention they nominated Roosevelt for the presidency and later perfected a com-

plete party organization. In the presidential election of 1912, the Progressive party carried six states and secured a popular vote of 4,126,020, while the Republican candidate carried only two states and secured less than 3,500,000 votes. In the congressional elections of the same year the Progressive party elected 13 Representatives, who acted throughout the Sixty-third Congress as a third party under the leadership of Victor Murdock. In 1913, however, the Republican party effected a reform in its convention representation and procedure and many Progressives returned to their original party allegiance.

Until the spectacular rise of the Progressive party in 1912 few indeed have been the voters who have even been reached by the direct appeal of a new party designed to displace the established ones. Probably not one voter in a hundred was conscious of the existence of the Independent party on election day 1908. The regular parties have the support of history, tradition and habit, and it would seem impossible that a third should gain the ascendancy so long as the major parties give expression to the dominant issues of the day.

See ANTI-MASONIC PARTY; INDEPENDENT MOVEMENTS IN POLITICS; PARTIES, STATE AND LOCAL; PARTY, PLACE AND SIGNIFICANCE OF; PROGRESSIVE PARTY; PROHIBITION PARTY; REFORM MOVEMENTS, POLITICAL; SOCIALIST PARTY; VOTING, INDEPENDENT.

References: J. A. Woodburn, *Pol. Parties and Party Problems* (1913), chs. viii, ix; C. A. Beard, *Am. Government and Pol.* (1910), 119-125; J. Bryce, *Am. Commonwealth* (4th ed., 1910), II, ch. lvi; T. H. McKee, *National Conventions and Platforms* (5th ed., 1904); *Am. Year Book*, 1912, and year by year.

JESSE MACY.

THIRD TERM. The Federal Convention (*see*) of 1787 devoted some attention to the qualifications of the President, and at one time voted for a term of seven years, with exclusion from reelection; but Gouverneur Morris insisted that unless a President could be reelected he would infallibly be controlled by Congress. Later the convention came within one vote of providing that no person should serve as President more than six years in twelve years. Nevertheless, almost at the last moment, the convention adopted the four year term, and explicitly withdrew the restriction on reelection. Very likely in this respect as in many matters relating to the powers of the President, the convention was influenced by the confidence that the first President would be George Washington, a man who could be trusted.

Washington accepted a second election with hesitancy, urged thereto by personal letters from both Jefferson and Hamilton; but he was very restive under the attacks upon him in the opposition press. In July, 1796, it was

rumored that Washington would not stand again, and in September he issued his farewell address in which the chief motive for retirement is stated to be "the increasing weight of years." In 1799, however, Washington was active in the Federalist party in Virginia and at the time of his death Hamilton's friends were preparing an appeal to him to stand for a third term.

Jefferson without protest accepted a reelection in 1804; but grew very tired of the difficulties of the presidency, and withdrew in 1808. He put on record his conviction that the principle of rotation in office and the danger that a President might be elected every four years for life, were sufficient reasons for retiring, but he was ready to run again if in no other way the choice of a Federalist could be avoided. From that time for many years it was an accepted principle that the normal service was two terms. Jackson began by protesting against a second term, but swallowed his scruples. Van Buren, like John Quincy Adams, stood for the second term and was defeated. Tyler is said to have expected to serve out his term inherited from Harrison and then to receive the regular two terms in addition; but from 1836 to 1861 there was a succession of single terms, though Fillmore and Pierce both worked hard for a renomination which they did not get. Lincoln and Grant were both reelected, and Grant's friends pushed him hard for a second renomination; but public sentiment was too strong. After a four years interval Grant was strongly supported in the Republican convention of 1880, and narrowly failed of the nomination. Grover Cleveland was the only President to serve two terms with an interval between; he was therefore, three times a candidate. President Roosevelt served for nearly four full years as successor of President McKinley, and then when the returns showed that he was reelected, he made a public statement, in New York, that he would not accept another term. Although it was generally believed that he might have had a second nomination if he had wished it, he stood by this declaration in 1908, but on Feb. 24, 1912, he announced his willingness to accept a renomination. Inasmuch as his disclaimer had been intended to apply only to a consecutive third term, his friends were convinced that a majority of the Republican voters and a majority of the delegates properly elected to the convention favored his nomination for a third term, but a majority of delegates for President Taft was seated. Failing to receive the nomination of the national Republican convention, he was nominated by the convention of the new Progressive party (*see*). In the election he polled 4,126,020 votes and received 88 electoral votes.

There are thus nine cases of double term presidencies, and a tenth case (Cleveland) of two terms in office not continuous. It is diffi-

cult to say how far the objection to a third term, particularly if an interval has elapsed, is still felt by the American people.

The Democratic platform of 1912 favored the single presidential term and a constitutional amendment therefor. Such an amendment would doubtless provide for a six-year term.

See GRANT, U. S.; NOMINATION OF PRESIDENT; PRESIDENTIAL ELECTIONS; presidents by name; ROOSEVELT, THEODORE.

References: E. Stanwood, *Hist. of the Presidency* (1898), *passim*; J. Bryce, *Am. Commonwealth* (4th ed. 1910), I, 45; A. B. Hart, "The Third Term Ghost" in *Sat. Eve. Post*, May 18, 1912. A. B. H.

THIRTEENTH AMENDMENT. This amendment was submitted to the states by resolution of Congress in 1865 and by proclamation of the President of December 18 of that year was declared to have received the approval of the requisite number of states. It provides that:

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation.

So far as the abolition of slavery is involved there has been no question as to the effect of the amendment, but as to what constitutes involuntary servitude important questions have arisen. It is conceded that while the primary object of the adoption of the amendment may have been to free the colored race from a condition of servitude the general purpose was to render impossible the existence within the jurisdiction of the United States of any legal or social institutions imposing involuntary servitude on any class of persons. The peonage system prevalent in Mexico, the coolie system of China, the padrone system of Italy, fall within the prohibition (see INVOLUNTARY SERVITUDE).

The express exception of punishment for crime covers not only imprisonment but also the imposition of labor as a punishment and of involuntary service as a penalty for failure to pay a fine imposed as a punishment. Moreover, the services of persons imprisoned for crime belong to the state and may be leased, subject, of course, to humanitarian regulations as to the method in which such services may be employed.

Under the enforcement clause Congress has legislated against peonage, that is, a condition of enforced servitude by which the servitor is restrained of his liberty and compelled to labor in liquidation of some contract debt or obligation. But without such legislation state statutes imposing imprisonment or servitude for non-performance of contractual obligations are invalid as in conflict with the provisions of the amendment. Criminal punishment may be imposed for the fraud involved in entering

into a contract to pay money or render services with the intention of not performing it; but it is not competent by statute to make the mere fact of non-performance *prima facie* evidence of fraud.

See EMANCIPATION PROCLAMATION; RECONSTRUCTION; SECESSION; SLAVERY CONTROVERSY.

References: As to the general scope and purpose of the amendment, see H. C. Black, *Constitutional Law* (3d ed., 1910), 535-542; W. W. Willoughby, *Constitutional Law* (1910), II, §§ 455-459; *Slaughter-house Cases* (1872), 16 Wallace, 36; *Civil Rights Cases* (1883), 109 U. S. 3; as to involuntary servitude, peonage, and imprisonment for debt, see *Robertson vs. Baldwin* (1897), 165 U. S. 275; *Peonage Cases* (1903), 123 *Federal Reporter*, 671; *Cylatt vs. United States* (1905), 197 U. S. 207; *Bailey vs. Alabama* (1911), 219 U. S. 219; *In re Milcke* (1909), 52 *Wash.* 312; *Ex parte Hollman*, (1908), 79 *S. Car.* 9. EMLIN McCLAIN.

THREE HUNDRED AND SIX. The number of delegates who remained firm in their support of General Grant (*see*) for President in the Republican nominating convention of 1880. See REPUBLICAN PARTY. O. C. H.

THREE-MILE LIMIT. This is a phrase used to denote the extent of a state's jurisdiction over the open sea. The marginal sea with the shore-bottom under it for a distance of at least three marine miles beyond low-water mark is recognized as a part of the territory of the adjacent state (*see* TERRITORY IN INTERNATIONAL LAW).

The right of such state jurisdiction was generally accepted in the eighteenth century by the practice of nations, as a fair compromise between the former extravagant jurisdictional claims, which states made to all surrounding seas, and the denial of all rights to any part of the tidal waters. Bynkershoek, in 1702, asserted that the sovereignty of a state should extend beyond its shores as far as it could control the coastal waters by means of cannon placed on the land. At that time the maximum cannon-range was about one marine league. Although this measure of jurisdiction has come to be generally adopted, the vast increase in the range of projectiles has caused attempts to extend the strip beyond three miles. The better opinion seems to be, and this is in general accord with the present policy of the United States and Great Britain, that it would be unwise to change a principle so widely recognized and to which international practice has adapted itself; and that the attempt to make the marginal sea conform to the varying lengths of cannon-shots would result in confusion and discord.

The exercise of jurisdiction over the marginal sea is justified on the ground of security to the state, as a necessary and proper means

to the use and enjoyment of the land to which it is appurtenant, and as furnishing a wise basis for property rights over the wealth which the coastal waters produce. While the authority of the state is complete as to questions which arise from these considerations, it is limited by the needs of ocean navigation. The rights of a state's vessels, merchant and war, to pass through the marginal sea adjoining another state is a sort of international easement necessary for the convenient use of the open sea. As such, the doctrine of innocent use and passage within the three-mile limit is now universally recognized.

See BAYS AND GULFS; MARE CLAUSUM; WATER BOUNDARIES AND JURISDICTION.

References: J. B. Moore, *Digest of Int. Law* (1906), I, 535-698; T. J. Lawrence, *Principles of Int. Law* (4th ed., 1910), 192-196; C. Calvo, *Droit Int.* (5th ed., 1896), I, 478-480; E. Nys, *Droit Int.* (1904), I, 497-522; L. Oppenheim, *Int. Law* (1905), I, 239-245; J. Westlake, *Int. Law* (1906), I, 116-118, 183-198.

J. S. REEVES.

THURMAN ACT. See THURMAN, ALLEN G.

THURMAN, ALLEN G. Allen G. Thurman (1813-1895), often called "the old Roman," was a native of Virginia but a lifelong resident of Ohio. In 1845-1847 he served one term as a Democratic representative in Congress. From 1851 to 1856 he was a justice of the supreme court of Ohio, and in 1868, after being defeated narrowly for the governorship by Rutherford B. Hayes, he was elected by a democratic legislature to succeed Benjamin F. Wade in the United States Senate. During his service in the upper house (1869-1881) he was the recognized leader of the minority. He opposed the Civil Rights Bill and the resumption of specie payments and was an advocate of the Bland-Allison Act. His principal achievement consisted in securing the passage, in May, 1878, of the "Thurman Act," by which the bond-aided Pacific railroad corporations were compelled to fulfill their obligations to the government. In 1880 and 1884 Thurman was an unsuccessful candidate for the Democratic presidential nomination. At the St. Louis convention of 1888 he was nominated by acclamation for the vice-presidency; but the Cleveland-Thurman ticket was defeated. See DEMOCRATIC PARTY; SHERMAN SILVER ACT.

F. A. O.

TIDAL WAVE. A term indicating the overwhelming majority of the winning party at an election, resulting from a great "wave" of public opinion, which has a tendency to subside as rapidly as it arose. The term was applied particularly to the unprecedented success of the Democratic party in the state and Congressional elections of 1874, during Grant's second term.

O. C. H.

TILDEN, SAMUEL JONES. Samuel J. Tilden (1814-1886) was born at New Lebanon, N. Y., February 9, 1814. In 1841 he was admitted to the bar. In 1845-46 he was a member of the assembly, and in the latter year a delegate to the state constitutional convention. He was one of the free-soil delegates to the Democratic national convention in 1848. In 1855 he was the Democratic candidate for attorney general of New York, but was unsuccessful. By this time he was coming rapidly to prominence as a party leader, occupying also a leading position at the bar; and in 1866 was made chairman of the Democratic state committee. While holding this office he took a leading part in the overthrow of the Tweed ring (*see*). He was a member of the state constitutional convention of 1867, and in 1874 was elected governor of New York. The most notable event of his administration was the exposure of the canal ring (*see*), which had been defrauding the state by means of contracts for work not done. A proposed scheme of municipal government, framed by a commission on his recommendation, failed of approval by the legislature through the influence, it was said, of Roscoe Conkling. In 1876 he was nominated for the presidency by the Democrats, notwithstanding the opposition of Tammany. Under the decisions of the commission, he was awarded 184 votes against 185 for Hayes, but his popular vote was slightly in excess of that of Hayes. In the Democratic national convention of 1880 he had considerable support, but declined to be a candidate. He died near Yonkers, N. Y., August 4, 1886. See DEMOCRATIC PARTY; ELECTORAL COMMISSION. **References:** Samuel J. Tilden, *Writings and Speeches* (1888); J. Bigelow, *Life of Samuel J. Tilden* (1895); De A. S. Alexander, *Pol. Hist. of the State of N. Y.* (1906), ch. iii; J. K. McGuire, *Democratic Party of the State of N. Y.* (1905), iii; P. L. Haworth, *Hayes-Tilden Disputed Presidential Election* (1906).

W. MacD.

TILLMAN, BENJAMIN RYAN. Benjamin R. Tillman (1847-) was born in Edgefield county, S. C., August 11, 1847. He became a farmer, and entered state politics by inaugurating at Columbia, in 1886, a "farmers' movement" for agricultural education and improved agricultural conditions. In 1887 he prepared the way for the establishment of the Clemson Agricultural College. Becoming the head of the Farmers' Alliance (*see*), he began a bitter struggle against the state Democratic organization, and in 1890 was elected governor. He was reelected in 1892. The principal events of his administrations were the passage of the dispensary law, under which the state assumed control of the liquor traffic; and the establishment of the Winthrop Normal and Industrial College for Women. In the state con-

stitutional convention of 1895 he was chairman of the committee on suffrage, and through an educational and property qualification nearly eliminated the negro vote. In 1895 he was elected United States Senator, and was reelected in 1901, 1907 and 1913. His first speech in the Senate was a severe attack on President Cleveland. In the silver controversy he sided with the free-silver wing of the Democrats. His extreme views, dominating personality, and violent temper have involved him in numerous controversies. See DEMOCRATIC PARTY; NEGRO PROBLEM. Reference: *Appleton's Annual Cyclopedia* (1890-1901).

W. MACD.

TIMBER LANDS. The present method of acquiring timber lands in the public domain dates from the Timber and Stone Act of June 3, 1878. As amended the act provides that all unreserved, unappropriated, non-mineral, surveyed, public lands within the public-land states, which are valuable chiefly for the timber or stone thereon and unfit for cultivation at the date of sale, may be sold at their appraised value, but in no case for less than \$2.50 per acre. The provisions of the act are confined to citizens or persons who have declared their intentions to become such; no person or corporation can legally acquire more than 160 acres; proof must be made of the non-mineral and non-agricultural character of the land; and a sworn statement that the land is not sought for speculation but in good faith for the exclusive use and benefit of the applicant must be presented. From the time of its earliest operation this law has been subjected to severe criticism. Great tracts of valuable timber lands have been secured by large corporations through systematic collusion with the individual applicants. Proof of such agreements, however, is difficult to secure. The repeal of the law has been urged for many years. In its place a law providing for the sale of the timber at its market price, with a retention of the land for future disposal, has been urged. Since 1908 an effort has been made to appraise timber lands, but before that time the sale was always made at the minimum price. Large areas of timber lands have also been taken up under the homestead laws, and then commuted at \$1.25 an acre. The protection of timber lands from depredation is one feature of the work of the field service of the General Land Office. From 1878 to 1912 there were 99,535 timber and stone entries, for 13,059,658 acres and \$32,839,932 received. See CONSERVATION; FOREST SERVICE; PUBLIC LANDS, RESERVATION OF. References: General Land Office, *Regulations under Timber and Stone Act of June 3, 1878, and Acts Amendatory* (1908); National Conservation Commission, *Report* (1909), II, 192-5, 111, 387-390; Public Lands Commission, *Report* (1905), 62-65.

P. J. TREAT.

TIPPECANOE AND TYLER TOO. The refrain of a campaign song of the Whigs during the presidential campaign of 1840 (see HARD CIDER CAMPAIGN; LOG CABIN CAMPAIGN), composed by A. C. Ross of Zanesville, Ohio, and referring to "Tippecanoe" Harrison and John Tyler, the Whig candidates. See HARRISON, W. H.; TYLER, JOHN; WHIG PARTY.

O. C. H.

TISSUE BALLOTS. Election ballots printed on thin tissue paper so that a number of them can be deposited by a voter without detection, used extensively in certain southern states about 1876 to nullify the negro vote. See BALLOT BOX STUFFING; NEGRO SUFFRAGE.

O. C. H.

TOBACCO CASE. See REASONABLENESS IN RESTRAINT OF TRADE; SHERMAN ANTI-TRUST ACT.

TOBACCO LEGISLATION. The agitation for laws restricting the sale of tobacco began more than fifty years ago, but did not result in much legislation, except local ordinances against smoking in public places, until 1891, when no less than 15 states enacted statutes forbidding the sale of tobacco or cigarettes to minors. Since that year all the states, with two or three exceptions, have passed anti-tobacco laws. They usually prohibit the sale of tobacco in any form, or only that of cigarettes and cigarette paper to minors under 16 or 18 years of age. In several states violation of the anti-tobacco law is a misdemeanor; in others, special penalties are prescribed, ranging as high as a maximum of \$500 for a first offense or imprisonment for three months. In some states minors may be fined for smoking. Thus in Connecticut, any person under 16 years of age who smokes or uses tobacco in any form in any public street, or place, shall be fined seven dollars for each offense. In Illinois, any minor under 18 and over 7 years of age who smokes cigarettes in any public place is subject to a fine of not more than ten dollars. In a few instances, it has been sought to strengthen the law by making dealers swear not to sell tobacco to minors, by fixing a high license fee for selling cigarettes, taxing the sale of cigarette paper, etc. The frequent reenactment of anti-tobacco laws testifies to the difficulty of their enforcement. The states of Florida, Iowa, Indiana, Kansas, North Dakota and Washington forbid absolutely the manufacture and sale of cigarettes as well as of cigarette paper, under a maximum fine of \$500 upon a second offense or imprisonment for not more than 6 months. Under the leadership of the Anti-Cigarette League similar legislation is constantly being advocated in other states. See DRUGS, PUBLIC REGULATION OF; HEALTH, PUBLIC REGULATION OF; PUBLIC MORALS, CARE FOR.

J. K.

TOCQUEVILLE, ALEXIS, COMTE de. The Comte de Tocqueville (1805–1859) was born at Verneuil, France, July 29, 1805. He was educated for the bar, and in 1830 became an assistant magistrate. In 1831 he visited America, in company with his friend Gustave de Beaumont, on a government commission to investigate prisons and penitentiaries. His report, *Du système pénitentiaire aux États-Unis*, was published in 1832 (English translation, 1833). The most notable fruit of his visit, however, was his *De la Démocratie en Amérique*, first published in 1835 and again in 1850, and translated as *Democracy in America* (1835–40). This was the first philosophical and impartial examination of American life and institutions, and remains of prime value. In 1841 De Tocqueville was elected a member of the French Academy. He entered political life in 1839, but remained in opposition until the revolution of 1848, when he became a member of the committee which drafted the constitution of the Second Republic. In 1849 he was president of the assembly, and for a few months foreign minister. He was arrested in the *coup d'état* of 1851, and thereafter remained in private life until his death, April 16, 1859, at Cannes. See POPULAR GOVERNMENT. References: H. Reeves, Trans., *Democracy in America* (2d ed., 1898); G. de Beaumont, Ed., *Œuvres et Correspondance Inédites D'Alexis de Tocqueville* (1861), translated as *Memoirs and Letters* (1861). W. MACD.

TOKEN COINAGE. Token coins are coins made of copper or other base metals. According to American terminology these are known as minor coins. Sometimes this term is given a wider meaning to include all coins on which there is a large seigniorage (*see*), and also to private issues, as in 1861. See COINAGE, SUBSIDIARY. Reference: Monetary Commission, *Report* (1898), 113–130. D. R. D.

TOLL-ROADS. Corporations, commonly called "turnpike companies," chartered by the national or state governments, have built by private capital, and maintained by tolls collected from travellers, many important roads in the United States. The rates of toll are made by legislative or county officers or by the companies, and vary not only according to the kind of traffic, but also differ greatly among the states; for example, for a two-horse wagon from about one to five cents a mile. The toll-roads system began about the time of the Revolutionary War, and for more than a century was one of the chief (frequently the only) instrumentality through which the longer roads between communities could be built or improved; thus these corporations performed an important service in developing the country. Some toll-roads have been very lucrative; and at certain periods turnpike companies were a favorite field for speculation. In 1811 about

5000 miles had been built in New England and New York. From the beginning many toll-roads were unprofitable on account of poor construction or location, or insufficient revenue, and eventually, owing to railroad and public road competition others became unprofitable, and many were voluntarily abandoned by the stockholders; some franchises expired, others were forfeited. One or two states had toll-roads managed by public authority. Ten states never had toll-roads. In later years, especially in prosperous communities, strong public opinion has developed against toll-roads, as badly maintained, unduly used to promote private interests, or in short, an unjust monopoly, and has led to the purchase or condemnation of many toll-roads. In spite of public feeling, however, defective laws have enabled stockholders of profitable turnpikes to maintain their ownerships, and some communities are as yet unable or unwilling to take the responsibility for all their roads. The actual mileage of toll-roads though unknown is still considerable, especially in the South, but is a very small proportion of the total road mileage of the country.

See BRIDGES, PUBLIC; ROADS.

References: J. W. Jenks, "Road Legislation for the American State" in *Am. Econ. Assoc., Publications*, IV (1889), 170–171, and Appendix II; U. S. Dept. Agriculture, *Year Book*, 1899, 370–372; Office of Road Inquiry, *Bulletin* 17 (1895); Office of Public Roads, *Bulletin* 32 (1907); N. S. Shaler, *American Highways* (1896), 19–23, 93–95.

HECTOR J. HUGHES.

TONNAGE TAX. See TAX, TONNAGE.

TOOMBS, ROBERT AUGUSTUS. Robert A. Toombs (1810–1885) was born in Wilkes County, Ga., July 2, 1810. He was admitted to the bar in 1830, and served in the Creek War of 1836. From 1837 to 1840, and in 1842–43, he was a member of the Georgia legislature, becoming the recognized leader of the state rights Whigs. In 1844 he was a delegate to the Democratic national convention, and the next year was elected to Congress, retaining his seat in the House until 1853, when he was elected to the Senate. He was a member of the committee to whom was referred the Crittenden compromise, in December, 1860; but he had already, in an able speech, advocated disunion, and on January 5, 1861, joined the southern Senators in recommending immediate secession and the formation of a southern Confederacy. He had strong support for the presidency, but his name, apparently through some misunderstanding, was not presented in the Montgomery convention. On the organization of the Confederate Government he was appointed Secretary of State, but resigned in September, 1861, to become a brigadier general. At the close of the war he went abroad,

but returned in 1871 and resumed his law practice. In 1877 he sat in the Georgia constitutional convention. He died at Washington, Ga., December 15, 1885. See CONFEDERATE STATES OF AMERICA; PRO-SLAVERY. References: P. A. Stovall, *Robert Toombs* (1892); T. C. Smith, *Parties and Slavery* (1906); J. F. Rhodes, *Hist. of the U. S.* (1893-1905), 1-V; J. Davis, *Rise and Fall of the Confederate Government* (1881). W. MACD.

TOPEKA CONSTITUTION. See KANSAS; KANSAS STRUGGLE.

TORIES. The term was applied to the American Loyalists because they were held to be supporting the cause of the king as against the cause of the American people. In English politics it was the Tory party which had long upheld the prerogatives of the King as against the Whigs who upheld the rights of the Parliament. See LOYALISTS; REVOLUTION, AMERICAN, CAUSES OF.

C. H. VAN T.

TORIES, BRITISH. Men of the Conservative party still occasionally speak of themselves colloquially as Tories. More frequently Radical and Socialist speakers use the term in disparagement. In official documents of Conservative organizations, in Conservative newspapers, and in the printed addresses of Conservative candidates the term is never used. At the suggestion of John Wilson Croker, the term Conservative was substituted soon after the Reform Act of 1832, and the word Tory gradually disappeared from electioneering literature and the poll books. The change marked the passing of the toryism that can be traced back to the reign of James I, that reached its zenith between Pitt's Administration of 1784 and the downfall of the Wellington Ministry of 1830. Toryism existed before party lines were definitely drawn in Parliament. Throughout the seventeenth and eighteenth centuries it was an attitude towards the sovereign and the church. The Tories opposed the Revolution of 1688, their sympathies were with the exiled Stuarts until the Jacobite rising of 1745, and they were the consistent upholders of the claims of the high churchmen and zealous for the established church. After the accession of George III "they changed their idol but preserved their idolatry," and thereafter the Tories were wont to claim a monopoly of loyalty to the throne. They opposed the repeal of the Test Act until 1828, and the removal of the Roman Catholic disabilities until 1829. It cannot be said that the Tories of 1760-1830—except during Pitt's first term as premier—had any constructive policies. They were the "stand patters" of this somber period of English history. The repressive laws of 1793-99 and of 1819—part of the countermovement to the agitation for parlia-

mentary reform—were enacted by the Tories. For half a century the Tories continuously opposed parliamentary reform, and the fullest statement of Tory doctrine is in the arguments advanced in Parliament against the Reform Act of 1832. Tories then contended that government by King, Lords and Commons, as it then existed, was a beautiful mosaic not to be disturbed; that reform was a death blow to monarchy, the established church and the House of Lords; and that democratic government meant no taxes, no king, no aristocracy, no tithes, no rent, and repudiation of the national debt. By 1832 the old Toryism had exhausted itself; and next time the Tories came into power—1841-46—the party of opposition to Liberalism had become known as Conservatives, and was adapting itself to the England of the Reform Act. See CONSERVATIVE PARTY IN ENGLAND; LIBERAL UNIONISTS; LIBERALS; PARTY GOVERNMENT IN GREAT BRITAIN. References: T. E. Kebbel, *Hist. of Toryism* (1886); G. W. Cooke, *Hist. of Party* (1836); C. B. R. Kent, *Early History of the Tories* (1908); F. E. Smith, *Toryism* (1903).

EDWARD PORRITT.

TORRENS SYSTEM. A method for the official determination and registration of titles to land, recently introduced in a number of American states. In parts of continental Europe registration of land titles has been established for centuries, but the system adopted in this country has been adapted from that devised by Robert Torrens from the official registry of ship owners and adopted in Australia, and later in England and Canada. The laws for this registration of land titles provide for an official examination of the documents affecting land titles in the public records, an investigation of conflicting claims, and the issuance of certificates of title by a court; while subsequent transactions affecting land so certified must be entered on the registry of titles. Some difficulty has been experienced in framing statutes which would be considered valid under the provisions of the state constitutions. This system of title registration has now been authorized in Massachusetts, New York, Illinois, Minnesota, Colorado, Oregon, Washington and California; but it will take many years before it covers most of the land even in these states.

See LAND RECORDS; RECORDER OF DEEDS.

References: J. H. Brewster, *Conveyancing* (1904), ch. xxix; *Am. Law Review*, XXXVI, (1902); *Am. Year Book*, 1911, 167.

J. A. F.

TORT. A civil injury to person or property, as distinguished from a crime or public wrong, for which an action for damages may be brought by the injured party. Injuries arising out of breaches of contract as such are excluded.

H. M. B.

TOWN CLERK. The town or township clerk is a local officer holding in New England a place next in importance to the selectmen. Elsewhere he is the township officer having the greatest number and variety of duties. He is usually an elective officer and is responsible directly to the people. Among his numerous duties as prescribed by the statutes of the various states are: calling of the town meeting and recording of its proceedings; care of the records of the township; in some instances, recording of deeds and mortgages, issuing of marriage licenses; registering of brands or marks of cattle; issuing of licenses to peddlers and auctioneers; taking of the township census; recording of public improvements; approving of liquor licenses.

In some jurisdictions this officer may perform the official duties of a clerk to the township school board, or act as the township treasurer. By virtue of his office he may become the secretary of the township board of health, or custodian of the town hall—and thereby be vested with police power. Acting as treasurer, he may be required to post public statements of receipts and expenditures at the time of the township election. Bonds of other township officers may be subject to approval by him. Road funds and road equipment for the township are sometimes placed in his hands, as well as other duties connected with road administration. Finally, in states where the composite board exists the township clerk may become a member *ex officio* of the township board. In the New England states the legislatures are fond of assigning petty duties and responsibilities to the town clerk.

See LOCAL GOVERNMENT AND THE STATES; TOWN MEETINGS; TOWNS AND TOWNSHIPS.

References: J. Fiske, *Civil Government* (1890), 20, 24, 32, 79; J. A. Fairlie, *Local Government* (1906), 158, 177; G. E. Howard, *Local Constitutional Hist.* (1889), I, 89, 163, 173; E. Channing, "Town and County Government" in Johns Hopkins University, *Studies*, II (1884), ch. x; statute laws of the several states.

B. F. SHAMBAUGH.

TOWN-COUNTY SYSTEM. A term applied to the local government in the middle Atlantic and north central states, in which both towns (or townships) and counties are of importance. It represents a middle ground between the New England system, in which the town predominates, and the county-precinct system of the southern and far western states. The states where the town-county system is in force have more than half the population of the United States; but the total area under the county-precinct system is larger than that under the town-county system.

Local government under the town-county system is not, however, identical in all respects in the several states; but there are considerable differences both in the relative importance

of towns and counties, and also in the forms of organization. In New York and New Jersey, towns were established in the early colonial days before counties were organized; and in these states and also in Michigan, Illinois, Wisconsin and Minnesota, the towns and townships appear to be somewhat more important than in the other states under the town-county system. Town-meetings are provided for by statute; and in some localities are active institutions. But even in these states, the functions of town government are of less significance than in New England; and for the most part the town-meetings are little more than public elections, the business affairs being decided by a small number of citizens or often by the town officers. In the more southerly states where the town-county system prevails—Pennsylvania, Ohio, Indiana, Iowa, Kansas and Nebraska—county government is older than township government; and the latter is less important. There are no township meetings for business purposes; and the town affairs are decided by officials.

In the whole group of states under the town-county system, county government tends to become stronger and town government weaker. Poor relief is mainly a county function; in some states there are important county roads and bridges; there is regularly county supervision over local school officials; and in a number of these states the assessment of property for taxation and sometimes even town finances are subject to the supervision of county officials. This tendency appears to be due in part to the fact that the townships in the middle west are purely artificial areas, and do not correspond to the economic and social needs; in part, to the separate organization of villages, which attend to a good share of the problems of local government. Another factor is the increasing realization of the need for more efficient public service, which is often better secured by a few salaried county officers than through a large number of unpaid town officials.

The organization of town and county government in states under the town-county system also shows a good many variations. In those states where town meetings are provided, there is a well-defined chief officer of the town, generally called the supervisor, who is usually also a member of the county board. In Indiana and Kansas the township trustee is the chief officer of the town. In Pennsylvania, Ohio, Iowa, Minnesota and the Dakotas, the principal town authority is a small board or committee, somewhat similar to the selectmen of New England, although that term is not used in any of these states. In most of the states with town meetings, the county board is composed of town supervisors; while in the larger number of states under the town-county system the county board has a small number of members, usually called commissioners. Other county officers are more numerous than in New England, and are

about the same as in the southern and far western states, with the exception of county assessors.

See COUNTY GOVERNMENT; COUNTY-PRECINCT SYSTEM.

References: J. A. Fairlie, *Local Government in Counties, Towns and Villages* (1906), ch. x; G. E. Howard, *Local Constitutional History* (1889).
JOHN A. FAIRLIE.

TOWN MEETINGS. *Genesis.*—Probably the primal form of government is the assemblage of the people, or that part of the people which is considered capable of political action, for the transaction of public business. It survives in village meetings in China and in Russia; appears in the scanty accounts which we possess of Germanic institutions, and is still regularly practiced in those cantons of Switzerland which possess the *landesgemeinde*. Its rivals are the system of a local council, and the system of arbitrary chieftainship, both of which are frequently combined with the regular meeting of the freemen.

This institution can dimly be traced in England in the "wapentake" and "shire moots," but now exists only in the form of parish meetings, for which have recently been substituted parish councils (*see*).

Early Colonial Town Meetings.—Such parish meetings and the courts leet and baron held by the tenants of certain estates seem to be the model for the town meetings which sprang up in every New England colony immediately on their foundation. This part of the colonies was settled by communities of people, partly organized before they landed. The Mayflower compact (*see*) was an agreement for the government of such a community, and till the settlement of additional towns in Plymouth (*see*) the town meeting and the colony meeting were the same thing. In Massachusetts the different settlements were made by bodies of people with a minister, who began at once to take care of their local affairs in meetings of the church, and rather ungraciously admitted the superior power of the colonial government when it was formed.

From the beginning only a part of the adult men could vote in the town meeting. Distinctions were made between the church members acting in church affairs, the landholders, acting in territorial matters, and the body of citizens acting in public affairs. The general rule was, after the system was established, that nobody could vote in a town meeting who was not a voter in colonial affairs. This was the more important because all the colonial elections were conducted after the first few years in the town meetings. To the present day, however, there are still in some communities, as in Providence and New Haven, a select body of people who can vote in special proprietors' or town meetings membership in which is not open to most of the citizens.

In the southern and the middle colonies, also, there were assemblies of voters; but nowhere outside of the New England group was there a mass meeting of voters who could not only elect officers, but could legislate for their community. The town meeting has never been representative; it is the prime legislature for town affairs, undertakes or supervises many executive matters, and in early days acted as a local court.

Legal Basis.—Like all other functions and privileges of the towns, the town meeting is in every state where it exists, dependent upon the will of the state legislature, or of the makers of the state constitution. Whenever the community is brought by law under a different form of organization as a city, the town meeting ceases to be, except in the occasional cases mentioned above. In Massachusetts, any community which has come to have 15,000 people, may on its expressed wish, receive a municipal government under general laws, which supersedes the town meeting. The duties of town officers, the form and powers of the town meeting, are alike subject to the will of the legislature within its constitutional limitations.

In the town meeting states, it is the habit of the state legislatures to assign to town and town officers a variety of public services which in other states are performed by county governments or by state officers.

Extent.—The town system appears in Pennsylvania, New York and a number of the middle western states; but the town meeting, except for the choice of town officers, is found only in New England and in Michigan; though authorized in a part of the Illinois towns; it is there inactive. In colonial times there were also town meetings in eastern Long Island (in towns at that time associated with New Haven); and Thomas Jefferson urged the adoption of the system in Virginia. Probably a majority of the people in New England live under city government; but the town meeting is still a practical, and on the whole an efficient, government in the rural parts of all the six New England states.

Procedure.—With minor variations, the methods and forms of the town meeting are as follows. An annual meeting is held at a time fixed by a statute or constitution, and may be adjourned or continued from time to time till the business is completed. In addition, special town meetings must be called on the petition of a fixed number or proportion of voters. The business to be considered is stated in a warrant, which is posted in a public place, or mailed to the voters before the meeting; and no business can be transacted which is not mentioned in the warrant, though there is no obligation to dispose of any matter mentioned in the warrant.

For each town meeting is chosen a moderator, who often serves by successive elections at every town meeting for many years. Parlia-

mentary law is simple, and the debate, especially in the farming communities, is lively and to the point. In most cases the business is completed in one day, though sometimes it takes two or more sessions.

Functions.—Though state elections are no longer held in the town meetings, one of the principal purposes is to choose the town officers, whose term is almost invariably one year. The principal officers are: the selectmen (*see*) who are the standing town executive; the town clerk (*see*); the school committee (*see*); the highway superintendent or superintendent of roads (*see* ROADS); the town treasurer (*see* FINANCE, LOCAL SYSTEMS OF); and in recent times the board of health (*see* HEALTH, PUBLIC REGULATION OF). Reports from the selectmen, school committee and the town treasurer, are expected at the annual town meeting.

The second function of town meeting is local legislation on a great variety of matters, such as the town cemetery, town hall, town library, town water works, roads, local police ordinances and the like. Particularly important is the financial legislation, which involves taxation, appropriations, and the contracting of loans. The careful discussion of items in the budget is one of the educative influences of the town meeting. In local option (*see*) states, the question of license or no license for the sale of liquor the next year, is settled by vote of the town meeting.

A broader function of the town meeting is the interest which it develops in public affairs, women, children and non-voters often visit the

town meeting; and the items of town business are known to all the voters and discussed by any who are interested. The most serious trouble with the town meeting is that it does not act well where there are several elements in the community such as all-the-year-round residents and summer visitors; or farmers and a mill population. Some town meetings are regularly managed by a boss.

See COUNTY PRECINCT SYSTEM; DEMOCRACY AND SOCIAL ETHICS; LOCAL GOVERNMENT AND THE STATES; LOCAL SELF-GOVERNMENT; OVERSEERS OF THE POOR; PARISH; PARLIAMENTARY LAW; PARTY ORGANIZATION IN MASSACHUSETTS; POLICE POWER; POPULAR GOVERNMENT; PUBLIC OPINION AND POPULAR CONTROL; SELECTMEN; TOWN-COUNTY SYSTEM; TOWNS AND TOWNSHIPS; VILLAGES, INCORPORATED.

References: G. E. Howard, *Local Constitutional Hist. of the U. S.* (1889); "Monographs on Local Government" in Johns Hopkins University, *Studies*, I (1883), Nos. 4, 10, II (1884), Nos. 2-3, 5-7, III (1885), Nos. 1-4, 10, IV (1886), Nos. 7-9, VII (1889), No. 3, VIII (1890); A. B. Hart, *Practical Essays on Am. Government* (1893), No. 6; "Town Government on Cape Cod," in *Nation*, XVI (1893), 343-345; E. Channing, *Town and County Government in the English Colonies of North Am.* (1884); Jas. Bryce, *Am. Commonwealth* (4th ed., 1910), I, chs. xlviii, xlix; J. A. Fairlie, *Local Government in Counties, Towns and Villages* (1906); C. A. Beard, *Readings in Am. Government and Politics* (1900), 649-653.

ALBERT BUSHNELL HART.

TOWNS AND TOWNSHIPS

Origin of Towns.—The town or township is an area or unit in local government and administration. It had its origin in the New England colonies where communities were free to adopt rules and regulations for the conduct of their local affairs. The chief feature of this early town was a primary assembly known as the town meeting (*see*) in which matters of local concern were discussed, public policies determined, and town officers chosen. Under the earliest forms the entire body of electors constituted the government and administration of the town; but very early in their history the towns set up committees or "townsmen," eventually called "selectmen," chosen to represent and to act for the whole body of electors during the interim between town meetings.

The historical nucleus of the early town was a settlement of associates united from the first as a congregation in their church. Indeed, it is rather difficult to distinguish between the early town as a body politic and the same community as an ecclesiastical unit, since the

same area might be regarded as a town for civil purposes and as a parish for religious purposes. The meeting place of both town and church was usually the church or "meeting house." In New England the town, with its town meeting and selectmen, has persisted as the vital unit of local government. It is perhaps the nearest approach to a purely democratic polity in the United States.

The term "town" appears first to have been used in 1630 to designate more or less compact settlements of limited area but with boundaries irregular and somewhat indefinite. Thus the early New England town was in marked contrast to the later western township which had regular boundaries and a scattered population. From a very early date the terms "town" and "township" appear to have been used synonymously. It is said that township at first meant "merely a tract of land granted to persons who intended there to settle a town and gather a church." When on account of the distance church attendance became difficult for the people of an outlying community, the

settlement was formed into a "district, precinct, or parish." And "when a district or precinct attained sufficient strength it was incorporated as a town." It is also clear that the towns exercised parochial power, the people of the commonwealth being for the most part of one religious persuasion. Thus the terms "town," "township," "district," "precinct," and "parish" were used more or less indiscriminately for both civil and ecclesiastical purposes in the early laws.

Functions.—The New England town at once became the unit of representation, sending one or more delegates to the general court or assembly. It was incorporated, possessed the right to organize its own militia, and was privileged to hold a court to try petty cases. The right of suffrage was limited by a property qualification, and in some colonies also by a religious qualification. Officers of the town usually included the selectmen, a town clerk, constables, surveyors of highways, tithing men, fence viewers, clerks of the market, overseers of the poor, and other minor functionaries, varying with the jurisdiction. The selectmen had authority to decide questions touching the qualifications of voters at the town or parish meetings previous to the selection of a moderator or chairman. In the smaller towns they performed duties which elsewhere belonged to other officers, such as the town treasurer, the overseer of the poor, health officers, the assessor, and probably the school committee.

At present the functions of the town or township as a unit or area of local government and administration are those of the historic town as modified by local and general laws in the several states. Hence the town or township now exists in many different forms and with varying functions. In the beginning, the activities of the New England town were similar to those of the old English manor (*see*) and "the civil functions of the parish." But as time went on the original functions were modified and additional activities undertaken in response to new and changed conditions. The maintenance of highways, care of the poor, provision for public schools, public regulation of many private affairs, control of land records in some instances, all became a part of the privileges or duties of the town. Moreover, the town was not only used as a basis of representation, but also for the organization of the militia and the assessment and collection of taxes. An early manual of town laws contains an enumeration of about fifty general subjects upon which the town might act as it desired.

Outside of New England the town or township has been the subject of much litigation, but in these other jurisdictions it does not hold the same relative position in local government and administration. In New York the town or parish established under the "Duke's Laws" (*see*) became a form of local govern-

ment similar to the New England township—although the governing body in this instance consisted of a constable and eight overseers. The town meeting existed in New York; but it existed only for the election of officers—a custom which spread westward into and beyond the central states. Of the constable and overseers the former was the most important official, occupying the first place both in the town and in the parish. In the later laws of the province, while the manor, the precinct, the district, and the town are treated as of equal power generally, the town alone is specifically mentioned. Probably the precinct preceded the township as in other jurisdictions; or the township may have been subdivided into precincts previous to the division into separate townships.

The principle of representative township-county government was first developed in New York; and from that source may be traced the system as established in states formed from western territory. Among the officers of the New York town or township are the supervisors, the assessor, the collector, the surveyor of highways, the fence viewers, the clerk, the constables, the overseers of the poor, and the pound masters. Moreover, the township wherever it appears in the later states as a predominating influence in local government, has been based upon the New York model. On the other hand, when the township is subordinate to the county in local government it is based upon the Pennsylvania model—in which plan it had little authority beyond selecting its own officers. In Pennsylvania the township is not represented on the county board as in New York. The New England feature of the town meeting is found in some states without the representative element in the county authority. Thus there are three forms of township organization to be found in the western states, namely: (1) the New York plan; (2) the Pennsylvania plan; and (3) a modified form of the New England plan.

Western.—The movement in the establishment and organization of townships beyond New York and Pennsylvania began with the adoption of the land ordinance of 1785: for when the public domain was surveyed into tracts six miles square and the name "township" given to these divisions either through custom or design, the future units of local political organization were more or less predetermined. Moreover, this limited and fixed area is properly described as an "original surveyed township" or "congressional township," and should be distinguished from both the "civil township" and the "school township" which may or may not coincide with the thirty-six square mile tracts. The name "geographical township" may also very properly be applied to the original surveyed township.

The congressional township is employed chiefly as the basis of land records; and the

numbers of townships and ranges as shown upon a township map of a western state refer in every instance to the congressional township—the range numbers appearing upon some parallel and the township numbers on some meridian. Accordingly, all townships lying within two lines six miles apart drawn parallel east and west or at right angles to the meridian are known by the same number; and all townships arranged in the same manner in lines parallel to the meridian are in the same range number. All land descriptions and records, therefore, mention both the township number and the township range. The congressional township, it may be remarked in passing, has no government beyond that which is common to all naked territory.

Throughout the western country the existence of the original surveyed township—that is, the congressional township—encouraged the establishment and organization of the civil township, since it provided a unit of territory of convenient size upon which to engraft local government or school government as soon as a few settlers had arrived; but the town meeting played no part in the preliminary organization in many states. On the contrary the establishment of local government was, as a matter of fact, provided for by the central authority of the state—by which whole counties and in some instances large areas not yet formed into counties were declared to be civil townships. Where the precinct system preceded township organization, settlers were permitted under the law to petition the county commissioners or supervisors for the establishment of township government. In some instances the statute commanded the formation of civil townships in all counties. Furthermore, some states have set up a local-option method of establishing township government, whereby the electors of a county may determine by ballot whether or not they will adopt or retain the township plan of government. The right of the inhabitants to have a voice in determining the boundaries and in fixing the name of the township is recognized to some extent.

In the early history of the Northwest Territory (*see*) the township officers were appointed by the county court of general quarter sessions. Later the state of Ohio placed the government and administration of the township in the hands of officers chosen by the electors. Other modifications were introduced by subsequent states and territories.

As bodies corporate and politic the organized township may sue and be sued, may purchase land for corporate purposes and make contracts within the exercise of its legal powers. The township is, however, described as a quasi-corporate body since it possesses only a limited corporate capacity or power.

South.—The township as described above is not found in the South. An attempt was

made to introduce it during the period of reconstruction, but without success. If it exists in any form it is only as a geographical division. The name township may be retained in some instances, and in some places the congressional township is the area of the civil district; but such townships are not bodies corporate and politic as in the northern states—except in a few countries of Missouri. In the South the districts into which the counties are divided are not so numerous as are the townships in the northern county and consequently they are somewhat larger.

School Townships.—Previous to the establishment of civil townships in the early history of the Northwest Territory, provision was made in some instances for the care of school lands which had been set apart by the government in the original surveyed townships. Three trustees and a treasurer were to be chosen in each township as soon as twenty freeholders became resident therein. This appears to be the earliest school township; and as such it coincided with the original surveyed township. Usually, however, the school township as found in the several states coincides with the civil township, regardless of the boundries of the original surveyed township.

The name "school township" refers to a distinct organization separate from the civil township authorities. Usually corresponding in boundries, the civil township may have followed in some instances the organization of the school township; that is, the congressional township may have been formed into a district for educational purposes before the civil government was provided for. As suggested above, the election of trustees and a treasurer for the care of school lands and the appropriation of the funds arising from such lands within the congressional township of thirty-six square miles, may have led to the establishment of a civil organization.

Subdivisions.—Along with the great variety of forms which appear in the states where the township is the unit of local government, there is seen a tendency to create subdivisions following a preliminary division of the county into precincts or election districts. Moreover, the duties of officers have been, in some instances, assigned to other functionaries and the office abolished—resulting in a reduction of the number of elective officers in the township. Indeed, the chief modifications in township government in some states consist of this consolidation of duties and functions formerly performed by numerous petty officers. The central states furnish, perhaps, the most interesting phases of the growth and development of the township as portions of territory set apart under general or special acts for purposes of local constitutional government.

See CONSTABLE; COUNTY PRECINCT SYSTEM; LOCAL GOVERNMENT AND THE STATES; LOCAL

OPTION IN LOCAL GOVERNMENT; SELECTMEN; TOWN MEETING; TOWNSHIP.

References: J. Fiske, *Civil Government* (1890), 83-94, 102-104; G. E. Howard, *Local Constitutional History* (1889), I, index, 523; H. B. Adams, *Germanic Origin of New England Towns* (1883); A. Shaw, *Local Government in Illinois* (1883); E. R. L. Gould, *Local Government in Pennsylvania* (1883); E. Ingle, *Parish Institutions in Maryland* (1883); B. J. Ramage, *Local Government and Free Schools in South Carolina* (1883); E. Channing, *Town and County Government* (1884), all in Johns Hopkins University, *Studies*, I, Nos. ii, iii, vi, xii, II, x (1883-4); J. A. Fairlie, *Local Government* (1906), Pt. III, ch. xlviii; J. A. Wilgus, "Evolution of Township Government in Ohio" in *Am. Hist. Assoc., Annual Report* (1894), 403; statute laws of Ohio, Michigan, Wisconsin, and Iowa; A. B. Hart, *Actual Government* (rev. ed., 1908), 82, "Colonial Town Meeting" in *Practical Essays on Am. Government* (1894), ch. v; J. Bryce, *Am. Commonwealth* (4th ed., 1901), I, ch. xlviii; *Am. Year Book, 1911*, 226-228.

BENJAMIN F. SHAMBAUGH.

TOWNS AND TOWNSHIPS, BY-LAWS OF.

New England towns have power to enact orders, by-laws and regulations, not repugnant to law, for purposes specified in the statutes. These include orders for managing their prudential affairs, for preserving peace and good order and a great variety of other subjects. Connecticut towns have the largest authority, only matters of a criminal nature being excluded. In Massachusetts, town by-laws must be approved by the attorney general of the commonwealth; and in Maine by the county commissioners or a judge of the supreme judicial court.

Such by-laws are adopted by the voters in town meeting, except in Rhode Island, where this power is vested in the town councils.

Towns and townships in the middle Atlantic and north central states have also more limited and less important powers of adopting local by-laws.

County authorities are also given some authority to adopt by-laws and local regulations for strictly limited purposes. In some states, county boards may regulate fishing in public waters, and in some, they may offer bounties for the destruction of wild beasts or noxious insects. County boards of health, in some states may issue sanitary regulations.

All such by-laws are subject to judicial review, if found to exceed the powers or transgress the forms established by law, or to be incompatible with the state or national constitution.

References: J. S. Garland, *New England Town Law* (1906), J. A. Fairlie, *Local Government in Counties, Towns and Villages* (1906), ch. v.

J. A. F.

TOWNSHEND ACTS. In 1767, Charles Townshend introduced into Parliament three bills which were enacted into laws. By one there was established in America a board of commissioners of the customs with power to administer the Acts of Trade. A second laid a duty on importations into America of paper, glass, red and white lead and tea. The third suspended the New York assembly until it should obey the Mutiny Act. The income of the tax on importations was to provide salaries for royal governors and judges in America. Writs of Assistance (*see*) were formally legalized. **See** REVOLUTION, AMERICAN, CAUSES OF. **References:** G. E. Howard, *Preliminaries of the Revolution* (1905), 174-205; texts in W. MacDonald, *Select Charters* (1899), 320-329.

C. H. VAN T.

TOWNSHIP. As the unit of the land survey in the United States since the Ordinance of 1785, the township is formed from lines drawn at right angles six miles apart. A base line is established drawn at right angles to a chosen meridian; and then lines parallel to this base and others parallel to the meridian are drawn. The rectangular areas thus formed, containing thirty-six sections of 640 acres each, are known as the "geographical," "original-surveyed," or "congressional" township. **See** LAND GRANTS; PUBLIC LANDS AND PUBLIC LAND POLICY; SURVEYS OF LAND; TOWNS AND TOWNSHIPS. **Reference:** T. Donaldson, *Public Domain* (1880), 178.

B. F. S.

TOWNSHIP BOARD. The township board in some jurisdictions constitutes the chief authority in the government of the township. It should not be confused with the board of trustees or supervisors found in several of the states. In the central states the township board may consist of three officers of the same rank, having no duties in addition to those exercised by the group collectively. Again it may be composed of three township officers, such as the supervisor, the clerk, and the treasurer; or it may be made up of the trustees and two elected members; or it may consist of three elected freeholders.

In the main the duty of the township board is the auditing of accounts. In some states its function is expressed in the name "Board of Auditors"; while in others, where no head officer exists and all are of equal rank, its duties are more extended, including the licensing of peddlers, the making of sanitary improvements, and the care of the public health. This board may also be authorized to levy township taxes, or at least fix rates, borrow money, and act as a board of equalization. In some cases it performs the duties of fence viewers, and overseers of the poor, provides for township roads, and has general oversight of the township elections.

See COUNTY PRECINCT SYSTEM; TOWN-COUNTY SYSTEM; TOWNS AND TOWNSHIPS.

References: J. A. Fairlie, *Local Government* (1906), 176; G. E. Howard, *Local Constitutional History* (1889), 172; statute laws of the central and western states. B. F. S.

TOWNSHIP HIGH SCHOOLS. See SCHOOLS, HIGH, TOWNSHIP.

TRACTION LINES. In certain cities street railways are referred to as "traction lines" and the corporations which operate them use the word "traction" as a part of their title. The word has no longer any distinctive meaning. See RAILROADS, STREET. T. C., JR.

TRADE DOLLARS. When the standard silver dollar of 412½ grains was dropped from the list of coins authorized by the coinage law of February 12, 1873 (see SILVER COINAGE CONTROVERSY), provision was made for the issue of a trade dollar of silver, 420 grains in weight. This coin was designed for trade in the Orient, where the Mexican dollar of similar weight was in common use. Not being intended for circulation in the United States, its legal tender quality was limited in accordance with the general provisions of the act to five dollars. As these new coins were diverted from their intended use and circulated in the United States, coinage was discontinued in 1878. By the act of March 3, 1887, they were made redeemable for a period of six months in standard silver dollars, to the considerable profit of sharp speculators, with notice that after this period they would be accepted at only their bullion value. In all, \$36,000,000 were coined, while approximately four-fifths were exported and were not redeemed. See CRIME OF '73; SILVER COINAGE CONTROVERSY. D. R. D.

TRADE, ECONOMIC DISCUSSION OF. See EXCHANGE, PRINCIPLES OF.

TRADE FOLLOWS THE FLAG. The phrase "trade follows the flag" has been so often used that many have thought it the statement of an economic law or a political principle. Trade is an economic phenomenon; the flag is an emblem of political jurisdiction; in the relation of the two there is no necessary sequence.

During the period of colonial development the extension of political dominion was naturally followed by a corresponding extension of trade. The extension of trade ventures was also usually followed by the assertion of political control over unoccupied regions with which trade had been opened. The expression "the flag follows trade" would be descriptive of this period. In recent years the flag has often followed trade in Asia, Africa and the islands of the Pacific Ocean.

Trade may follow the flag when constrained to do so by navigation laws, tariff or other legislation, and in this sense, in earlier times and at present, the phrase "trade follows the flag" has been properly used. Differences in laws, administration, and institutions in different states are in some degree barriers to the freedom of trade and the general uniformity in these respects under the same flag would facilitate trade where conditions were in other respects similar, making possible the statement which is in many instances all that is implied, *viz.*, under like economic conditions, trade tends to follow the flag.

See COMMERCE, INTERNATIONAL; COMMERCE, AMERICAN, MOVEMENT OF; EXCHANGE, PRINCIPLES OF; SUBSIDIES TO SHIPPING.

References: C. F. Bastable, *Theory of Trade* (1903); C. C. Chisholm, *Commercial Geography* (1907); Clive Day, *Hist. of Commerce* (1907); J. A. Hobson, *Int. Trade* (1904); bibliography in G. M. Fisk, *Commercial Policies* (1907), 259-272. GEORGE G. WILSON.

TRADE-MARK. A symbol, emblem or mark put upon articles offered for sale so as to distinguish them from similar articles offered by others, and so as to identify them as having been produced or put upon the market by some one manufacturer or dealer. A trade-mark is a valuable right protected under common law and by statute. The Constitution of the United States does not confer upon Congress power to legislate for the protection of trade-marks, and federal legislation upon this matter is confined to the protection of trade-marks in interstate and foreign commerce, and to the registration of trade-marks at the federal patent office in order to obtain such protection. State statutes in a number of states provide for the protection of trade-marks in domestic commerce within the states, usually requiring registration in order to obtain such statutory protection. In the absence of state statutes, and in addition to them where they exist, the owner of a trade-mark has under common law an action for damages against any other person placing goods upon the market under such trade-mark, and has also an equitable remedy by injunction to prevent another from continuing to use such trade-mark. See COPYRIGHT; MONOPOLIES; PATENTS.

W. F. D.

TRADE RELATIONS, BUREAU OF. The Bureau of Trade Relations, one of the bureaus of the Department of State (see), is charged with the publication of consular and diplomatic reports of interest to Americans trading with foreign countries, and with the collection and dissemination of other available information concerning trade opportunities in foreign countries. See CONSULAR REPORTS; DIPLOMATIC CORRESPONDENCE. References: Secretary of State, *Annual Report*; C. H. Van

Tyne and N. G. Leland, *Guide to the Archives* (2d ed., 1907), 55-56.

A. N. H.

TRADE SCHOOLS. See **SCHOOLS**, **TRADE**.

TRADE UNIONS. Popularly the term "trade union" or "trades union" is applied to any organization of laboring men which makes it its primary function to institute collective action by wage-earners in the settlement of the terms of employment. Some economists use the term "trade union" only in reference to labor organizations composed exclusively of men working in similar trades. See **LABOR ORGANIZATIONS**.

J. R. C.

TRADES IN POLITICS. The "diekering" or bargaining between the leaders of different factions of a political party by which a list of nominees for office is agreed upon and harmony secured within the party. The phrase is also applied to the exchange of votes between candidates of opposing parties in which a candidate and his friends agree to "knife" (see **KNIFING**) a candidate on their own ticket in favor of the opposing candidate, in return for a like favor.

O. C. H.

TRAFFIC AGREEMENTS. Agreements usually between competitive railroads for the regulation of rates, fares and services. Traffic associations arose when railroads began to compete with each other during the decade 1850-1860, but they did not become of significance until about 1870 when the trunk lines had been extended into the Middle West. Agreements at the beginning largely took the form of pools (see **POOLING IN RAILROADS**.) When pools were declared illegal by the Interstate Commerce Act in 1887, traffic associations were reorganized. The pooling feature was eliminated and in its place was introduced the traffic agreement which provided for joint control and regulation of competitive traffic and the maintenance of definite schedules of rates. Penalties were provided for violation of contract.

These agreements eventually brought the railroads under condemnation of law. In 1897 the Supreme Court of the United States held (166 *U. S.* 290) that the Anti-Trust Act of 1890 applied to railroads and that the Trans-Missouri Freight Association was in violation of that act as being a contract between railroads to maintain rates in restraint of interstate commerce. In 1898 the court, on substantially the same grounds (171 *U. S.* 505) dissolved the Joint Traffic Association, consisting of thirty-two railroad companies in eastern and central territory.

Again a reorganization of the traffic associations was necessary to bring them within the limits of the statute. While the decision of the court prevented rate agreements, it did not prevent the continuance of the associa-

tions for the purpose of forming continuous through lines, determining the division of through rates, and discussing methods of procedure in various matters pertaining to traffic.

Moreover, the last decade has witnessed a rapid consolidation and integration of railroad lines, and with this has gone an increasing realization on the part of railroad managers of the futility of cut-throat competition, and the reality and extent of their common interests. Associated action has in consequence developed rapidly.

At the present time there are large numbers of traffic associations, some covering a wide extent of territory, others operating in local areas, separate organizations having to do with passenger and freight traffic. They are virtually conference committees representing the railroads interested. They confer, advise, agree, and coöperate in matters relating to divisions of through rates, classification of goods, regulations concerning joint tickets and their redemption, excursion tickets and methods to prevent fraud, rules and regulations concerning inspection and handling, promulgation of statistics, and a multitude of other details. Moreover, they exchange information in regard to traffic, tariffs and rates, and although their proceedings are not public, it is well known that after discussion as to what rates should apply in a particular case, each of the traffic officers states to the conference what rate his company will file, publish and apply.

From the fact that these associations have been left undisturbed, it may be concluded that their present agreements are not considered to be in violation of the Anti-Trust Act.

See **GENTLEMEN'S AGREEMENTS**; **INTERSTATE COMMERCE DECISIONS**; **POOLING IN RAILROADS**; **SHERMAN ANTI-TRUST ACT**.

References: Johnson and Huebner, *Railroad Traffic and Rates* (1911), I, ch. xv, II, ch. xxxii; L. G. McPherson, *Railroad Freight Rates* (1909), 171, 263-4. F. H. DIXON.

TRAILS AND PORTAGES. Portage is the French word meaning pathway or carrying-place about the falls or rapids of a river—"aux chutes d'eau en Amérique." In modern days these ancient paths are still used by canoeists, hunters and lumbermen of the same northland; some of the pathways are worn a foot and more into the rock.

The commonest portage was that around the rapids of a river, as on the St. Lawrence and Ottawa at each important *saut*, as on the Niagara, on the Ohio at Louisville, on the Mohawk at Little Falls.

Of more importance historically and economically, however, were the portage paths from one river system or valley over the watershed to another. Such was the important portage between the Ottawa and French Rivers (the Lake Nipissing route to Georgian Bay).

Strategic portages joined the heads of the southern tributaries of the St. Lawrence and Great Lakes with the streams flowing into the Atlantic Ocean or the Mississippi Basin, such as those between the Kennebec and Chaudière, the Mohawk and Onondaga or Oswego, the Tuscarawas and Cuyahoga, the Maumee and Wabash, the St. Joseph and Kankakee, the Chicago and Illinois, the Fox and Wisconsin, from Lake George to the Hudson (Fort Edward), from Lake Erie to Lake Chautauqua, and to French Creek. Another group joined the Great Lakes with Hudson Bay by way of Pigeon River and the Lake of the Woods, early known as the "Grand Portage" and later as the "General Rendezvous" of the northern traders.

In the nature of the case portages were difficult roads of travel; sometimes it was possible to pass directly by canoe from Lake Michigan to the Illinois River. Some of the St. Lawrence Basin portages were two and three leagues in length.

The strategic importance of the portage in war and peace, has led to the crossing network of road, canal, railway and trolley lines at such points as Utica, N. Y., Akron, Ohio, Fort Wayne, Ind., and South Bend, Ind.

See FRONTIER IN AMERICAN DEVELOPMENT; PHYSIOGRAPHY OF NORTH AMERICA; ROADS.

References: A. B. Hulbert, *Historic Highways* (1902-05), VII, ch. i; W. G. Ganong, "Monograph of Historic Sites in the Province of New Brunswick" in Royal Society of Canada, *Transactions*, V, sec. iii, 213-357; E. T. Benton "The Wabash Trade Route in the Development of the Old Northwest" in Johns Hopkins University, *Studies*, XXI (1903), Nos. 1-2; J. H. Smith, *Arnold's March from Cambridge to Quebec* (1903); G. A. Baker, "The St. Joseph-Kankakee Portage" in *North. Ind. Hist. Publications* (1899), No. 1. A. B. HULBERT.

TRAINING SCHOOLS FOR TEACHERS. See SCHOOLS, PUBLIC, NORMAL.

TRAINING SHIPS. The *Navy Register* names four "sailing ships for training purposes" as belonging to the service, but such vessels no longer cruise for the training of midshipmen or naval apprentices. The former are sent to sea from Annapolis in a squadron or distributed among battleships of

the Atlantic fleet; and the latter are briefly instructed at shore stations before embarking in vessels of the fleet. Not more than three months is allowed for preliminary instruction at the training stations at Newport, Norfolk, Chicago, and San Francisco. The Navy Department lends armed vessels of various types to the naval militia of the states; and the managers of public nautical schools at Boston, New York, and Philadelphia are allowed to use three cruising vessels for instruction under the command of retired officers of the Navy, though they do not train recruits for the service. See EDUCATION, MILITARY AND NAVAL; ENLISTMENT, NAVAL AND MILITARY; MILITIA; TRAINING STATIONS. References: Navy Department, *Annual Reports* (1910), 418, 446, 468-472 (1912), 133. C. G. C.

TRAINING STATIONS. Four naval training stations in the United States are maintained for the purpose of fitting apprentice seamen for service in the fleet. The station at Newport, Rhode Island, established in 1869, had been improved at an expense up to June 30, 1910, of \$7,226,307; and the average cost for maintenance was over \$5,000. For the Yerba Buena station in San Francisco Bay, founded in 1898, the corresponding figures are \$1,065,625 and \$10,000 respectively. The Great Lakes training station at North Chicago, Illinois, had cost \$2,904,853 for improvements between 1905 and 1910, since its occupation in 1911. The annual appropriation has averaged over \$100,000. The station at St. Helena near Norfolk, Virginia, is allowed \$25,000 a year. A force of 2500 men for training is authorized; and the duration of the course is subject to the demands of the fleet. All training stations are controlled by the Bureau of Navigation of the Navy Department, which carries on recruiting in all parts of the country. See EDUCATION, MILITARY AND NAVAL; ENLISTMENT, NAVAL AND MILITARY; TRAINING SHIPS. References: U. S. Navy Department, *Annual Reports* (1910), 31, 318, 697; (1911), 138, 190, 443; *Regulations for the Government of the Navy* (1909), 197 (1912), 60, 109, 127. C. G. C.

TRAMPS. See POVERTY AND POOR RELIEF; VAGRANCY.

TRANSIT IN CITIES, PROBLEMS OF

Magnitude and Variety of Interests Involved. —In 1907 the street and electric railways of the United States carried 7.441 millions of fare passengers. This was equivalent to 250 paid rides for every man, woman and child living in urban communities of more than 8,000 pop-

ulation, an increase of average rides in five years from 181 to 250. In 1910 the urban population in cities of 25,000 and over, totaling 28,500,000, had increased 35 per cent in ten years as against an increase of only 15½ per cent outside of these cities. In New York

City the number of paid street car rides per inhabitant increased from 246 in 1900 to 321 in 1910. These figures show a rapidly rising urban population with a still more rapid increase in the use of street cars, and establish the fact that transit facilities lie at the very basis of our modern city civilization and are becoming more important every year. Hence the public interest in transit as a utility, as a fundamental necessity of city life under modern conditions.

In the first place, everybody who lives in a city is interested in having adequate street railway service at reasonable rates. While the travelling public in 1907 paid 382 millions of dollars in fares, the plant required for rendering the service paid for was capitalized at 3,775 millions of dollars or practically double the entire bonded debt of the 158 largest cities of the country, and represents with more or less accuracy the private investments in transit plants and equipment.

Inasmuch as the plants are located in large part in the public streets, vast private financial interests are entangled with the public interest in transit problems.

A third interest of great magnitude intimately concerned with the problems of transit is held by the owners of real estate. Transit facilities have such a tremendous influence upon the value of land served by them that this factor often dominates the entire transit situation, particularly with relation to extensions and new developments.

A fourth factor of great importance is the body of men engaged as employees in operating the street railways. There were 221,000 of them in 1907, forming a distinct industrial group whose efficiency was of direct interest through personal contact probably to more people than was the efficiency of any other one group of employees in public or semi-public work. In proportion as transit facilities have become a constant necessity, so has the public importance of the street railway employees as a class increased.

Here are four distinct and, in some respects, conflicting interests involved in the transit problem. The fifth interest, required to harmonize the four and dominate the entire complex of problems, is the political or public interest. This interest gets into the field: first, because the municipality furnishes the right of way on which street cars are operated; second, because with the growth of cities transit has become so universal a necessity as to constitute a logical municipal function; and, third, because the uses of the streets for other purposes have become so complex and imperative as to necessitate the constant control of the city over street railway operations. There are no adequate statistics to show just how great the public's interest as capitalist is, compared with the interest of private investors. It is clear, however, that the streets,

which the city furnishes, represent a portion of the capital investment that could not be duplicated.

The Time Problem.—The requisites of good street car service from the standpoint of the riding public are speed, safety, comfort, unity in operation, ubiquity and reasonable, uniform rates.

The cost of a street railway ride is largely in the time it takes. An hour a day for each individual is an addition of at least 10 per cent to his occupation; when two hours or more is wasted in going to and from work, the loss of time becomes almost prohibitive.

The first way of attacking this problem is by an increase of speed. This is a difficult matter in public streets, especially in the down-town districts of great cities. Considerable increase of speed was secured when electricity was substituted for horses and mules as motive power. But the big cities quickly outgrew this improvement and the demand for more rapid transit became imperative. This condition has led to a rather widespread movement for elevated roads and subways, by which the advantages of an undisturbed private right of way are combined with location in the public highways. Moreover, the steam railroads have been impressed into service for handling suburban passenger traffic. Still the speed problem persists, and on the New York City subway and elevated lines it has been found necessary to provide enough tracks to permit of the operation of both express and local trains.

The problem of waste of time can be partially solved in another way. If the conveniences and comforts of transit are so increased that the time spent in travel can be profitably used for reading, thinking or relaxation, it is not wholly lost, and consequently the limit of time that can be spent on the cars without economic disaster is raised.

Still another way of meeting the time problem is by a systematic development of all available residence areas in every direction from the business center, making the city grow round and symmetrical, instead of long or irregular. Sometimes very expensive public improvements, such as the construction of bridges and viaducts and the drainage or filling in of large areas of swamp lands, are required for this purpose.

Congestion of population also meets the difficulty temporarily. Though real congestion is always to be deprecated, it is clearly true that scientific housing and city planning can provide comfortably for a much denser population than is ordinarily accommodated in cities. But after all is said and done the problem of the costs of transit in waste of time presses upon us insistently with grim assurance that sooner or later it will stop the growth of cities as we now have them, namely,

as great aggregations of population surrounding and dependent upon in each case one central business district.

The Safety Problem.—The necessity of safety in transit is obvious and has led to the elimination of many railroad grade crossings in cities. The problem is complicated by the fact that street railway operation is usually more dangerous to other users of the streets than to the passengers on street cars. This makes the problem of fenders and wheel guards and of the constant regulation of traffic at crowded crossings especially important.

The Comfort Problem.—The advantages of comfort in travel as a time-saver have already been referred to. It is only necessary to add that under transit conditions which often prevail during rush hours, the time spent on the cars is much worse than wasted; it is so exhausting that so far as fatigue goes, people would be better off to be at work, adding so much to the hours of hard daily toil. This is the problem of rush-hour traffic. Speed helps here, as it enables the movement of more cars over a given number of tracks; and a great gain can be had by a judicious arrangement of terminals so that the cars can keep moving up to the full capacity of the tracks. Thus far the principal difficulty in the rush hour problem is the financial one—the old difficulty of handling the “peak load,” further accentuated, in the case of transit, by the unprofitableness to the operating company of overcrowded service. It requires much less power and much fewer cars and men just to carry the crowds and get their nickels than it does to carry them well.

Problem of Unity in Operation.—Unity in operation has great advantages to the traveling public. While a large percentage of urban travellers go regularly back and forth between the same points, there are many whose business or pleasure takes them constantly to different parts of the city; while practically everybody needs to vary his route or his destination once in a while. The obvious advantages of through-routing, convenient transfers and good connections give a large underlying current of popular support to street railway consolidations, in spite of popular antipathy to monopoly and ever-recurring confidence in competition.

Ubiquity Problem.—Unity of service is not sufficient, however, unless the service extends to all points where it is needed. The principal use of competition in the street railway business has been in securing a widely-extended service. With the consolidation of lines, which has come to be considered as generally both inevitable and desirable, the problem of ubiquity of service has become much more difficult. It remains for the public authorities through franchise grants or by the use of the police power to put themselves in a position to take the place of competition as an incen-

tive to extensions of service. Monopoly in a given territory without the corresponding obligation fully to serve that territory is both practically and theoretically intolerable.

Unity and ubiquity of service require the coördination of street surface and rapid transit lines such as we find in Boston and Philadelphia. In an enormous, sprawling area like that of Greater New York grave difficulties are in the way of complete unification, especially of the street surface systems. Under such conditions, the desideratum of city-wide transit for a single fare should undoubtedly be the carrying for the daily work-ward and home-ward movement, even if the convenience of pleasure-riding is neglected. If local conditions make competition in transit necessary, it should not take the form of parallel lines, but each transit agency should have its own residence territory to serve, and the cars of all companies should be admitted to the business district on equal terms.

Rate Problem.—The final interest of the street car patrons is in the matter of rates. There has been a great deal of confused thinking on this subject. Any rate that enables promoters and investors to get rich by the manipulation of public property is too high. Any rate that prevents the street railways under intelligent management from earning a fair return upon the private capital invested, gradually paying off such capital and at the same time maintaining the plant at a high standard of efficiency and constantly rendering first-class service, is too low. So far as the city's interest is concerned, the city may well forego any large compensation from the street railways, either in the form of rentals or in the form of taxation. The rates should be sufficient to meet the reasonable requirements of the investors and to give the public good service. The rates should be uniform in order to bring about a symmetrical development of the city, but in the long run even the poorest wage-earners will find a profitable readjustment in their wages or in the general conditions of their economic life for any increase in fare that is actually used in giving uniformly good service.

Investment, Financial Return and Amortization.—Street railway investments have heretofore been highly speculative. Vast fortunes have been made out of the manipulation of street railway securities. Millions of hard-earned dollars have been lost in street railways through mismanagement, speculation, thievery and, in some cases, premature investment. The investor, representing the money that goes into the plant, has an especial interest in the complete elimination of stock-jobbing from the street railway business. A small but certain return upon the money actually put into the property, and a sinking fund accumulating out of earnings that will make possible the gradual withdrawal of the

capital invested, are the things that will bring the interests of the public and of the investor into harmony. Just what rate of return should be allowed on private capital invested in street railways cannot be stated dogmatically, but in general the rate should approximate the rate of interest paid on city bonds, as the safety of the investment approximates the safety of investments in such bonds. No more can it be stated dogmatically how many years should be allowed for the retirement of the capital, but under ordinary conditions there is good reason for amortizing public utility investments as rapidly as municipal debts are amortized.

Relation of Transit to Real Estate.—The obvious disadvantages to property of having noisy, dust-raising and dangerous cars operating in front of one's door has led to a requirement in some states that before a street railway can be built the consent of a majority in number or interest of the property owners on each street to be occupied shall be secured. In some cases, this requirement has led to scandalous trafficking in consents. Unless the right of appeal to the courts or to a competent public commission is given to the promoters of a street railway project in case of the absolute refusal of the property-owners to consent, an important public utility may be stopped or its development may be forced into uneconomical directions, by the stubbornness of private interests. In New York state an appeal is permitted to the courts, while on the other hand the abutting property-owner is entitled to recover damages on account of the operation of street cars in front of his door where he owns the fee in the street. That under certain circumstances the construction and operation of a street railway affects adversely the values of abutting land, is well known. On the other hand, in probably a large majority of cases, land values are directly enhanced by the provision of additional transit facilities in the vicinity. Justice would seem to require that, while private ownership in city sites is maintained, a street railway should be treated as a public improvement to the extent of awarding damages and levying assessments for benefits, the net cost that remains after this adjustment being regarded as the measure of the capital to be invested by the promoters of the enterprise.

Public Problems Relating to Street Railway Employees.—A street car strike in a city is a great industrial, social and moral disaster. A transit system is designed for going. Everything depends on it. Strikes should be made impossible, if it can be done. The employees of a street railway are engaged in a responsible, high-grade work. They are entitled to ample remuneration and first-class treatment. The public's interest in the continuity of service as well as in efficient and courteous street car operation justifies the city or the state

in compelling the arbitration of all disputes between the company and its men. It might even be desirable to insist on a division of profits with the employees according to some scheme of rewards for merit that would encourage regular, faithful and intelligent service. Having provided in the fullest manner for the just treatment of the employees, the city should not then hesitate for a moment in case of strike and disorder to put its whole police organization behind the operator of the transit system so as to make the cars go, and go in safety.

Public Control of Transit.—It is now universally recognized that the logic of civic needs drives to public control as the inevitable conclusion of a rational consideration of transit problems. The only question still open is as to the form of this control: shall it be by public regulation or by public ownership and operation? Regulation by means of state and local utility commissions and departments is one of the great political movements of the immediate present. It is likely to eliminate the speculative element from street railway securities, to cause improvements in equipment and service, to promote honest and intelligent accounting and possibly to reduce rates to a slight extent. Thus far this movement has made little progress in the direction of actual municipal ownership except in the emphasis now being laid on the indeterminate franchise. Not until the rule is established that a street railway should be paying for itself even while in private hands will municipal ownership become a natural and easy development. Meanwhile the machinery of control which is being built up by the city and the state will be training a body of experts who look at transit problems from a public point of view and whose services can be had, when needed, to make municipal operation a success. In all probability public regulation is driving toward municipal ownership more rapidly than appears on the surface. As the stock-jobbers are driven out of the field, the most powerful argument against municipal ownership, namely, the get-rich-quick value of privately controlled franchises, will disappear. In fact it would not be surprising to see before long many street railway men climbing into the municipal ownership wagon, having got their properties appraised at a liberal figure and realizing that municipal ownership has many advantages in the operation of a business run primarily for service rather than for profit.

See BRIDGES, PUBLIC; CITY PLANNING; CONGESTION IN CITIES; DOCKS AND WHARVES, PUBLIC; HARBOR SYSTEMS; RAILROAD COMMISSIONS, STATE; RAILROADS, ELEVATED; RAILROADS, STREET; SIDEWALKS; STREET COMMISSIONS AND COMMISSIONERS; STREETS; SUBWAYS AND TUNNELS FOR CITY TRANSIT; TRANSPORTATION, REGULATION OF.

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TRANSPORTATION BY GOVERNMENT.

Army Transport Service.—With the opening of the war with Spain, it became necessary for the government, through the War Department to operate a regular transport service between New York, San Juan, Ponce and Santiago; and during the years 1898–99, forty-seven chartered vessels were operated in the temporary Philippine transport service. This service has been reduced, but also been made permanent. Through the Quartermaster General's Department of the War Department, the government now conducts its oversea transportation in two ways: (1) in commercial vessels under special contract or on ordinary public tariffs; (2) in vessels owned or chartered by the government, under the supervision of the Quartermaster General. The home ports are New York with business of slight importance, and San Francisco, whence the service operates a regular line of steamers to the Philippines. Through the Quartermaster General's Department, supplies, war munitions, etc., are also transported by rail, under regular railroad tariffs, and by wagon, train, stage and express. Till the railroads reached the plains the Government maintained a monthly wagon service to the posts, by contract with private vehicles.

Collier Service.—The Navy Department, in 1910, purchased 651,241 tons of coal which

requires transportation to the ports and outlying posts. A portion is shipped in merchant vessels under contracts entered into by the Bureau of Supplies and Accounts. The Navy Department, however, operates a fleet of colliers, which in 1910 numbered 20 with 135,417 tons displacement. In that year the Department also operated eight transports and supply ships.

Panama Railroad Company.—In connection with the Panama Canal, the Government operates the Panama Railroad Company, which in 1910 carried a total of 1,272,217 tons of freight and 2,227,569 passengers. Through its commissary department, it operates bakeries and other food preparation plants, and wholesale and retail selling departments for the feeding of the government construction forces in the Canal Zone.

One branch of its service includes a steamship line which operates a line of six steamers between New York and Colon, and in 1910, carried 425,559 tons of freight and 16,615 passengers.

See COST OF GOVERNMENT IN THE UNITED STATES; MILITARY AND NAVAL EXPENDITURES; PANAMA CANAL; PANAMA RAILROAD; PHILIPPINE ISLANDS; PUBLIC PROPERTY.

References: U. S. Secretary of War, *Letter on the Transport Service to the Philippines*, House Doc., 57 Cong., 1 Sess., No. 537 (1902); Quartermaster General, *Report* (Annual); Bureau of Supplies and Accounts, *Annual Reports*; U. S. Navy Department, *Annual Report*; Panama Railroad Company, *Twenty-sixth Annual Report* (1910); C. B. Baker, *Transportation of Troops and Materials* (1905); H. W. Daly, *Manual of Pack Transportation* (1910). GROVER G. HUEBNER.

TRANSPORTATION, ECONOMIC PRINCIPLES OF

Economic Significance.—The dictum of one of our great essayists and historians that, with the exception of the alphabet and the printing press, the inventions which have abridged distance have done more for civilization than all others, is not too extravagant praise of modern transportation and communication, which go far to fashion our whole industrial system. The primitive and simple industrial life of the ancients was conditioned by inadequate means of communication. When communication improved about the beginning of the eighteenth century, markets were widened, and specialization (division of labor) with its resultant great increase in productive capacity was made possible. The outcome was modern, large-scale production and capitalistic industry. Concurrently came a financial organization of industry in which individual enterprise yielded to the partnership: the partnership gave way

to the corporation with its limited liability, its continuity of life and its power of collecting large resources; and as the final development came the "corporation of corporations," the modern trust.

Transportation and Distribution — In the realm of distribution, or sharing, of wealth, our transportation development has played an equally significant part. Increased productivity has given us a larger total to be shared; and the forces governing the actual sharing are, to no small extent, the result of the development of transportation. The rents of today are largely location rents, and the alignments of laborers and capitalists and the relative powers of each class in the competitive struggle, are so far conditioned by transportation forces as almost to account for the form of the present industrial organization. Then, too, the principles of distribution have become

more complex. In the "sun-dried brick" stage of industry there is little complexity, and value determinants are easily arrived at. In the specialized and large-scale industry of today the principles of distribution are not easy to ascertain. We are far from being in agreement concerning either what is or what ought to be.

Social and Political Consequences.—By opening up new sources of supply and by making possible the territorial division of labor the possibility of great famines has been reduced and the means of subsistence for all classes have been greatly cheapened. The social significance of greater ease of communication of ideas requires no comment, nor does the significance of migrations of people from one country to another, from state to state, or from rural district to city. The importance of machine industry in the shaping of the thought-processes and in determining the whole mental horizon of modern man is now recognized.

Roads and Waterways.—We have not arrived at our present position at a bound. In internal transportation most nations have passed through the dirt-road, the turnpike, the canal, and the railroad (steam and electric) stages. An equal or greater number of stages, each marking the introduction of some mechanical device could be enumerated for deep-water transportation, both ocean and lake. Man ceaselessly opens up new markets and expands the old ones, makes accessible new stores of raw materials, establishes new seats of manufacture, renders more and more highly specialized and complex and more and more efficient his whole industrial organization.

Aside from deep-water transportation, from canals connecting two bodies of deep water, from natural shallow waterways requiring little expense for maintenance, it is clear that the future agent of transportation will be the railroad, steam or electric. The artificial shallow waterway has serious disadvantages. Generally it must bear prohibitive costs of transshipment since it can reach only level districts and even there cannot throw out satisfactory sidelines, switches, and feeders. Expenses of construction and maintenance are so great that the cost of transportation is much greater than by rail, even if no allowances be made for insurance charges and slower haul. Generally, the waterway can be utilized only a part of the year because of ice in canals and ice and floods in rivers. Finally, in the United States at least, industry has located itself according to rail transportation and the cost of shifting the industries or of developing suitable water terminals would seem prohibitive.

Economic Characteristics of Rail Transportation. The railway industry considered from the point of view of economics has four main characteristics: (1) The first of these is the

fact that the railway business is preëminently an industry of much fixed, specialized capital. Tracks, locomotives, cars, etc., require tremendous outlay and when these instruments have been called into being they can be used only for the one purpose of transportation by rail. For better or for worse, social capital has been committed to the enterprise, in a way that is irrevocable. (2) Once the railway is in existence, a large part of the costs of operation are without any very definite relation to the volume of the traffic. The wear and tear of natural forces, the interest on construction, the obsolescence of machinery, and many other costs go on much the same whether trains be many or few. As Arthur M. Wellington puts it in his *Economic Theory of Railway Locations* (2d ed., 1887):

Assume that with given traffic the total cost per unit is 100; extra freight in small lots will cost per unit 0; extra freight in car loads will cost per unit, 5 to 20; extra freight in train loads will cost per unit not over 60.

(3) The costs in railroading are largely "joint costs," which are incurred for the traffic as a whole. It follows that until cost accounting has progressed far beyond its present stage it will be impossible to find the "cost of service" for each particular unit of traffic. Even with perfect cost accounting the assignments of overhead charges would be more or less arbitrary approximations. (4) The industry has developed so rapidly that a "normal" has never been attained. The railway of today differs from that of 1830 as much as the early railway differed from the turnpike. On both the mechanical and the business sides, the industry has undergone through constant development what has amounted to almost a revolution every few decades.

Principles of Additional Traffic.—From these characteristics flow significant consequences. (1) Tremendous pressure exists to secure added traffic. Since cost does not vary proportionally to changes in volume of business, conditions may easily arise where an increase in business will cause more than a proportional increase in profits. A 10 per cent increase in business, with rates unchanged, may increase the surplus available for dividends over 100 per cent. If this traffic is "back haul" traffic, i. e., traffic which is to be moved in the direction in which empty cars are going, the case is even stronger. The "empties" must be returned; the organization of the system is already in existence, perhaps even to the point of having sufficient freight handlers to care for the new freight. In such a case the added cost may be well nigh negligible. It is not difficult to understand why the manager who will develop even a little new business is eagerly sought after; nor is it difficult to see the justification of building branch lines which are not in themselves profitable, but which bring in a little more traffic for a long haul on the parent line.

From the manager's point of view, that he should give low rates on cheap and bulky commodities in order to induce them to move and thus increase the volume of his business is clear. It is also clear why the manager will feel justified in charging less for a "long haul" than for a "short haul" over the same line provided he can get the long haul traffic on no other terms; nor will he feel that by so doing he places any burden on the "short haul" traffic. Thus the significance of the principle of charging what the traffic will bear" is apparent, as is also the interest of the public in reduced rates as business develops.

(2) Competition is not a satisfactory "law of trade" in transportation and the incentives to combination are exceedingly strong. (a) If once a rate war breaks out there seems to be no stopping-place. The field cannot be abandoned, for the instrument can produce nothing at transportation and a large part of the charges (c. g., interest on bonds) would accumulate even if not a train moved. If traffic falls off, costs will not fall proportionately. It follows, then, that a manager may go on for long periods "producing transportation" and collecting a rate which does not cover his total cost per unit, provided the rate covers added cost per unit or more. He may even produce less than added cost per unit in the hope of increasing his traffic. If the traffic does so increase, the new added cost per unit will be lower—it may be lower than the rate originally charged and if so it is "good business" from his point of view. In addition, since the costs are largely joint costs, it may be impossible to know definitely until after it is all over just where the line between "paying" and "losing" business is (a situation particularly true in the earlier days of our railroads), and the bitterness with which rate wars are carried on becomes comprehensible. (b) Competition does not necessarily mean the "survival of the fittest" in this industry. A bankrupt road which has been repudiating some of its added charges and which is willing to skimp its maintenance for years; or a roundabout road, subsisting largely on local traffic and hauling the added through traffic at a ridiculously low rate may be more than a match for the solvent, direct route—as witness the differentials, many of which are allowed "weaker" roads to induce them to stop fighting the "stronger" ones. The ancient assumption that competition was proper "law of trade," whatever that may mean, was based upon the assumption of a "normal," in which competitive forces had worked themselves into a state of equilibrium. In the railway industry no normal has existed; it does not seem likely ever to exist. As a consequence, the competitive equilibrium has been and seems likely to be of little significance in this industry.

In the early stages of development of railways, the idea of a cost of production theory

of value based upon a competitive norm permeated the public so thoroughly that when railways began to check competition by traffic pools and money pools, the law of 1887 forbade pooling. The result has been the acceleration of more definite and permanent forms of consolidation, by purchase, by lease, by holding company, by division of the field, by reciprocal representation on directorates, etc., some of which in their turn are now the object of attack.

(3) It is therefore exceedingly difficult to settle upon any satisfactory theory of rate making, and the various rate structures in our country are to a considerable extent a historical development out of "rate guessing," much influenced, of course, by the ever present wish to make a profit, and by the pressure exerted in later years on behalf of the interests of the public. Without any satisfactory theory, the attempt to regulate railways through regulation of rates has been attended with great difficulties. Some contend that mere regulation of rates will never suffice; that the regulation of individual rates must be coupled with regulation of net profits, thus securing justice to individual shippers and at the same time safeguarding the interests of the public as a whole by providing that the railways may not secure more than a reasonable return upon a reasonable and proper capitalization.

See ACCIDENTS, RAILROAD AND STEAMSHIP; COMMERCE, AMERICAN, MOVEMENT OF; LONG AND SHORT HAUL; MERGER OF RAILROADS; NAVIGATION, REGULATION OF; POOLING IN RAILROADS; PULLMAN CARS, REGULATION OF; RAILROAD CAPITALIZATION; RAILROAD COMMISSIONS, STATE; RAILROAD MANAGEMENT; RAILROADS, ELECTRIC; RAILROADS, PUBLIC AID TO; RAILROADS, PUBLIC OWNERSHIP OF; REBATES IN TRANSPORTATION; SHIP BUILDING, REGULATION AND PUBLIC AID TO; SHIPPING, REGULATION OF; SUBSIDIES TO SHIPPING; TELEGRAPH REGULATION; TELEPHONES, REGULATION OF; TRAFFIC AGREEMENTS; TRANSPORTATION, REGULATION OF.

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TRANSPORTATION, REGULATION OF

Rates and Services.—The problem of regulation is the problem of adjudicating those differences between citizens and public carriers which arise out of questions of railway service and rates. Differences between citizens and carriers which do not arise out of the public service of railways or the rate charged for such service, such as controversies regarding private property rights, are not generally adjusted through the agency of the "regulating" authority for the reason that these are judicial and not administrative questions, matters for the courts and not for commissions to pass upon. The boundary line between the field of administration and the judiciary is not always clearly discernible and numerous important questions of regulation will remain in doubt in this respect until the Supreme Court of the United States shall have declared whether they are administrative or judicial.

Common Carriers.—All railway regulation is based upon the public character of common carriers. This principle of regulation found practical application in the regulation of fares for vehicular and other conveyances centuries before the modern railway came upon the scene. Although incorporated in the English common law and transplanted to this country, this principle was not recognized by American railways until after the well known decision of *Munn vs. Illinois* (94 U. S. 113), in which the Supreme Court of the United States, among other things, reiterated the time honored doctrine that property devoted to a public use must submit to public regulation to the extent of that use. Many subsequent decisions have reaffirmed and defined that same doctrine, but not until quite recently have railways and other public utilities generally acknowledged their subordination to this principle.

Reasons for Public Regulation.—However, even before the decisions of the Supreme Court in the Granger cases (*see*), of which *Munn vs. Illinois* (*see*) was one, attempts at regulation of railways had been made. A statutory provision creating a commission to have jurisdiction over railways is found in a general law of Rhode Island of 1836. Administrative authorities were created by general laws in a number of other states during the period before 1873; and in the year 1911, no less than forty-two states had commissions, with varying jurisdictions and widely different powers. Complaints regarding excessive and discriminatory charges and inadequate service resulted in public agitation which reached its climax in the Granger movement during the period 1868 to 1873. While the Granger movement extended into a much later period, and the Granger organization is still active, it was

during these early years of its existence especially, that the organization became a political power, with the avowed purpose of subjugating the railways in the United States to what they considered to be the public interest. The management of the railways had in many cases been arbitrary; their charges had frequently been exorbitant, the grossest discriminations were openly practiced; and the service had oftentimes been most unsatisfactory. If Granger activities led to extremes, if Granger laws were radical, the explanation of whatever extreme radicalism may have cropped out is found primarily in the counter-radicalism of the railway management which had brought it forth. The railway officials of those days as a class denied the right of the public to interfere with whatever management they saw fit to give it, maintaining that like other classes of business the railway business was a private business. The Granger agitation resulted in the establishment of the principle that the railway business is largely a public business.

Private Elements of Railroad Business.—The extent to which the railway business is public and private respectively, has been under controversy ever since, with a consistent widening of public influence, both compulsory by statute and voluntary by company action, in the conduct of the railways. The exact limits of these two activities, public and private, will not be established for many years to come, if indeed a final adjustment can ever be reached. There is here a field for controversy which is inherent in the railway business largely independent of the question of ownership. Government ownership cannot dispose of the railway problem. It may solve some phases of what we now know as the railway problem; it will probably create others. Government railways have their private aspect just like railways owned and managed by corporations; and the conflict between the public and the railways in this respect will continue as long as railways are used, independently of whether they are owned by private companies or by the Government.

The issue in this respect relates both to initial and to final authority. In matters which are purely private to the railway corporation, the company has both the initial and final power, provided the safety of employees and travellers is not endangered. A railway company can determine the type of its locomotives, the kind of cross ties, the plan of its bridges, the arrangement of its station facilities, the character of its train and a multitude of analogous matters. These things may be called private to the corporation.

According to the best present thought on the subject, under present conditions, railway companies should be protected in their right of initiative in all company matters, public and private. This has been the underlying theory of federal legislation up to the present time, as it has been the theory of the best of our state laws. According to these laws the initial responsibility rests upon the railway companies to furnish reasonably adequate service at reasonable rates and it is only when service is alleged to be inadequate, or rates unjust, that the right of a state to interfere begins. Hence in a very true sense it may be said that the railway companies run their own business. Public authority interferes under statute only when the conduct of this business, as initially determined by the railway companies, is alleged to be at variance with the public interest. The resolution of the railway company is always tentative regarding the public aspects of its business and subject to modification or nullification by public authority in accordance with law. The resolution of the railway company may always be final regarding its private corporate affairs.

Public Elements of Railroad Business.—What is ultimately private and what is public is not always easy of decision. A railway company, it has already been stated, may determine the type of its locomotives. So it may be; but suppose that a certain type of locomotive should develop a tendency to jump the track, could not public authority step in and prohibit its use in the future? A railway company may determine the plan of its bridges. If a certain kind of bridge construction is excessively wasteful of revenues, or unduly prejudicial to public safety, cannot the state interfere with a view to checking waste and promoting safety? A railway company may persist in using antiquated wooden cars after the economy and safety of steel cars has been demonstrated. Can not the government interfere and prohibit the further use of wooden cars? After all, how many purely private matters are there in the conduct of the railway business? May not what seems private today be public tomorrow to an extent which may necessitate interference on behalf of the public?

It may be said, as it has been said for decades past, that self-interest will dictate the abandonment of the poor locomotive, the improper bridge, the dangerous passenger car. Has self-interest in fact done so? Did self-interest cause the abandonment of destructive couplers? Has self-interest established the most approved safety devices, the safest systems of operation and other similar protective measures on behalf of the public, and on behalf of railway operators? Self-interest has not generally done so in the past and it cannot be generally relied upon to do so in the future. Unfortunately enlightened self-interest has not

been, and perhaps never will be, the universal rule.

Nor should the actual history of railway management in this respect be attributed to a peculiar character of the men engaged in that management. Railway men as a class are like all other men. They are just as good and no better. They are just as bad and no worse. Nothing can be gained by calling railway people names. Regulation is impersonal, although extremely human. The railway business must be viewed in a strictly objective manner in its relation to all other human activities with which it comes in contact, and the points of contact analyzed in greatest detail and accuracy with a view to establishing the most correct and just basis for regulation.

Progress of Federal Regulation.—The first Interstate Commerce Commission act of 1887 was preceded by almost 20 years of continuous agitation, debate, resolutions and reports in and out of Congress. After the statute went into effect it was ten years more before the Interstate Commerce Commission was held by the courts to have authority to fix a rate for the future. Not until 1903 did the published rate become the only lawful rate. It was 1906 before the power to fix a reasonable maximum rate for the future was conferred upon the Interstate Commerce Commission. In 1910 the power to suspend proposed advances in rates was conferred.

The statute requiring carriers to equip their cars with automatic couplers and other safety appliances was enacted in 1893 and was amended and supplemented by the acts of 1896, 1903 and 1910. In 1907 the act limiting the hours of service of railway employees became law; and in February, 1911, was enacted the statute compelling carriers to equip their locomotives with safe and suitable boilers, and providing for the inspection of such boilers under rules approved by the Commission.

Since 1900 the field of federal regulation has been repeatedly expanded, and the indications are that legislation will follow in the future which will make the statutory code governing railways as broad as the business; and that is the test. The regulating statute must be coextensive with the railway business. That it has not been so has been the greatest weakness in regulating statutes of the past, state and federal. The interstate commerce law as amended up to the present time is capable of correcting by far the larger number of possible abuses in railway management. However, in 1914, it does not cover issues of securities by railway corporations: it does not cover all branches of railway service; it is inadequate in its treatment of safety in railway travel; it does not provide adequate machinery to deal with disputes between railway employees and railway companies, which may affect the whole country and always affects relatively many people and large territories.

Regulation by States.—The general problem of regulation in the states is essentially the same as in the nation, but specific state problems are fewer, frequently local and generally less important. Such matters as side tracks, station buildings, and even in many respects train service, are primarily local and can be best considered by people who know the localities affected and who are upon the ground; hence these are peculiarly within the province of state control. States, however, from the first, long before the interstate commerce law was enacted, extended the scope of their regulatory activity far beyond these matters, into matters of rates and classifications. Indeed, it was the rate above everything else that the states were determined to control. A natural historic explanation is thus found for the differences and the antagonism between the laws of different states that apply to the same system of railways. The reference to forty and eight masters is well understood. These many masters frequently, although unintentionally, stand in the way of progress in classifications and rates, which are national and not state questions. There is no such thing as a real segregation of state rates and interstate rates. It has been stated many times that commercially this country is a unit; and it also is clear that every railway system is, or should strive to be, a unit. Both statements are equally true. This unity extends to rates and classifications. Several states cannot contemporaneously act in regard to the same rate or classification of the same railway company in exactly opposite or different ways, as they frequently do, without doing injustice, causing unnecessary embarrassment, or retarding the desirable development of unity in rates and classifications. Entirely aside from considerations of local as against central control, or state as opposed to federal control, various states have properly and justly discountenanced suggestions looking toward the surrender on their part of the whole or a part of their authority over railroads. Very naturally they have been unwilling to consider any such suggestion until after they have had the assurance of a federal statute at least as effective as their own.

In state laws regulating railways there has been marked progress during recent years. Wisconsin, in 1905, and New York in 1907 enacted comprehensive and in general more satisfactory laws than any preceding ones and they have been followed in a number of other states in different sections of the country. Until the federal interstate commerce law reaches the completeness of these laws, suggestions looking toward the extension of the federal authority in rate matters cannot hope to make much progress without encountering the opposition of such states. How rapidly progress can be made in this direction after our federal statutes reach this stage is a

matter of conjecture. The problem is in the horizon and it will stay there till it rises to full view; it cannot be circumvented. The proper adjustment of state and interstate rates and classifications is in many respects the greatest problem of regulation with which the future of this country has to deal. One of the suggestions in this respect is the creation of a system of central, intermediate and local commissions, all working under one law covering the entire field of transportation and communication.

Government Ownership.—For some years past, the thought has been expressed by practically all students of regulation, from Presidents of the United States down, that the only alternative of regulation is government ownership. Relatively few are prepared to advocate that alternative at the present time. Regulation is still in its infancy; its progress has been steady and generally satisfactory; regulatory statutes are gradually catching up to the railway business; administration is getting to be as firm as management. Whether administrative supervision and private management shall continue to exist side by side depends much upon the character of both, and much more upon the constitutional interpretations which courts may place upon regulatory acts as administered by commissions. Constitutional nullification of practical administrative applications of law, more than any other single factor, more than all other factors combined, may precipitate an irresistible demand for government ownership at almost any time. As suggested above, government ownership cannot solve what this generation understands by the term railway problem. It can, however, prevent constitutional and metaphysical refinements, no matter how brilliantly conceived and logically elaborated, from nullifying practical administrative acts performed of necessity to meet a practical situation. The law is not yet as big as the business and courts have generally been inclined to restrict rather than extend the scope of regulatory statutes where it was possible to do either by judicial interpretation. There are noteworthy exceptions to this general statement, but its correctness as applied to the interstate commerce act can scarcely be questioned.

See ACCIDENTS, RAILROAD AND STEAMSHIP; AERIAL NAVIGATION, REGULATION OF; CANALS AND OTHER ARTIFICIAL WATER WAYS; DIFFERENTIALS IN RAILROAD TRAFFIC; DISCRIMINATION IN RAILROAD RATES; EXPRESS SERVICE, REGULATION OF; FRANCHISES, CORPORATION, LEGAL ASPECTS OF; IMMIGRATION; INTERSTATE COMMERCE COMMISSION; INTERSTATE COMMERCE DECISIONS; INTERSTATE COMMERCE LEGISLATION; LONG AND SHORT HAUL; MERGER OF RAILROADS; MUNICIPAL OWNERSHIP; NAVIGATION, REGULATION OF; PARCEL POST; POOLING IN RAILROADS; PUBLIC SERVICE CORPORATIONS;

PULLMAN CARS, REGULATION OF; REBATES IN TRANSPORTATION; RURAL FREE DELIVERY; SHERMAN ANTI-TRUST ACT; TELEGRAPH REGULATION; TELEPHONES, REGULATION OF; TRAFFIC AGREEMENTS; TRANSPORTATION BY GOVERNMENT; TRANSPORTATION, ECONOMIC PRINCIPLES OF; WATERWAYS, NATIONAL REGULATION OF; and under RAILROAD.

References: F. Adams, *Railroads: Their Origin and Problems* (1878); F. C. Clark, "State Railroad Commissions, and how They May Be Made Effective" in *Am. Econ. Assoc., Publications* (1891), VI, No. 6; F. H. Dixon, *State Railroad Control, with a History of its Development in Iowa* (1896); A. T. Hadley, *Railroad Transportation: Its History and Its Laws* (1885); H. S. Haines, *Restrictive Railway Legislation* (1905); J. Hole, *National Railways: an Argument for State Purchase* (2d ed., 1895); E. R. Johnson, *American Railway Transportation* (1903); William Larrabee, *The Railroad Question: a Historical and Practical Treatise on Railroads, and Remedies for Their Abuses* (10th ed., 1898); L. G. McPherson, *Working of the Railroads* (1907); B. H. Meyer, (1903); W. C. Noyes, *American Railroad Railway Legislation in the United States Rates* (1905); W. Z. Ripley, "Railway Problems" in *Selections and Documents in Economics* (1907); *Am. Year Book, 1910*, and year by year. B. H. MEYER.

TRANSYLVANIA. Transylvania was the middle section of what is now Kentucky, embracing a little more than one half of the present area of the state and extending southward into Tennessee. It was carved out of the "dark and bloody ground" of the Cherokee country in 1775 by Richard Henderson, of North Carolina, who sought to build a proprietary government west of the Alleghanies like that of William Penn on the Susquehanna. Henderson associated with himself eight others as proprietors, bought the title from the Indians in March, 1775, and immediately led some two hundred settlers into the region. A constitution was given to the community, May, 1775, which guaranteed annual legislatures elected by the people, courts holding authority from the proprietors and the other institutions common to Anglo-Saxon peoples. Many claims already filed with Virginia for the same lands led to sharp disputes which were finally carried to the second Continental Congress where the matter was in turn referred to the Virginia convention of 1776, which asserted jurisdiction over the whole region. Henderson's independent colony came to an end, though the proprietor was granted two hundred thousand acres of land as compensation. See KENTUCKY. **References:** R. M. McElroy, *Kentucky in the Nation's Hist.* (1909); F. J. Turner, "Western State Making in the Revolutionary Era" in *Am. Hist. Review*, I (1894), 70-87; 251-269. W. E. D.

TREASON. The crime of high treason was specifically defined in England by a statute passed in the reign of Edward III (1352) for the purpose of excluding constructive treasons which had been made the basis of conviction involving capital punishment and also of attainder involving forfeiture of property (see ATTAINDER, BILL OF) although the act complained of as constituting treason may have been no more than to intend, threaten, or attempt personal injury to the king or members of the royal family or to cast contempt upon the government. A portion of the definition of that act has been preserved in our state constitutions and in the Federal Constitution (Art. III, Sec. iii, ¶ 1), which restricts the statutory power to define crimes in this respect by providing the following definition which cannot be enlarged by legislative enactment:

Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. The Congress shall have power to declare the punishment of treason, but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

The whole spirit of our constitutional system necessitates a conception of treason as an offense against the United States or state and not against the individuals who are intrusted with the powers of government. Murderers of Presidents have been prosecuted for murder but not for treason.

There can be no treason within the constitutional definition unless war has actually been levied, but if a state of war exists then the crime may be committed by giving aid and comfort to the enemy although the person charged has not himself actually engaged in military operations. The purpose of specifying the kind and amount of evidence necessary is to prevent a conviction by the testimony of one prejudiced or perjured witness or by proof of uncertain admissions or confessions. The punishment is prescribed so as to exclude the forfeitures which were by the English law incident to an attainder. It is assumed that there may be treason against a state punishable under the constitution and laws of that state, but treason against the Federal Government is punishable only on conviction in a federal court. Other offenses against government, such as conspiring for its overthrow or inciting to rebellion or insurrection may be punishable as crimes under statutory definition but cannot be made to constitute the crime of treason.

See ATTAINDER; BILL OF ATTAINDER.

References: *Ex parte Bollman*, 4 Cranch 75; Marshall's opinion in *United States vs. Burr*, found in J. P. Cotton, *Constitutional Decisions of John Marshall* (1905), I, 96-203.

E. McC.

TREASURER IN LOCAL GOVERNMENT.
County Treasurer.—This officer is charged with the care and custody of county revenues. Formerly the office was appointive, but at present the treasurer is elected. He is, perhaps, the most important of the county officers, his position being usually the most lucrative. As a rule all local revenues pass through his hands; and all payments of county moneys are made by him upon orders drawn by the clerk, auditor, or other person authorized by the county board to act as their secretary. Where he serves as collector of taxes, the distribution of all local funds derived from taxation is made through his office.

Township Treasurer.—Where this officer exists he is charged with the care and the custody of township funds. In some jurisdictions, however, the functions of treasurer are performed by the township clerk, supervisor, trustee, or other officer. The township treasurer may be charged with the care of any funds belonging to the township and with the taxes collected for state and local purposes. Where the taxes are collected by the county the township treasurer simply receives from the county collector or treasurer the revenues raised for township expenditures.

See COUNTY AND CITY GOVERNMENT; DEBT, PUBLIC ADMINISTRATION OF; FINANCE, LOCAL SYSTEMS OF; TAXATION, SUBJECTS OF.

References: G. E. Howard, *Local Constitutional History* (1889), I, 174, 453, 463; J. A. Fairlie, *Local Government* (1906), 178; statute laws of the several states. B. F. S.

TREASURER OF THE UNITED STATES.
 The Treasurer of the United States principally has charge of the moneys of the government, and makes payments only on warrants issued

by the Secretary of the Treasury, countersigned by the Comptroller. He also has supervision of the issue and redemption of government paper money, of the redemption of national banknotes, of keeping the Indian and other trust funds. As the custodian of all funds, his office is one of great responsibility. Whenever the official is changed, all the moneys and securities in his charge are examined and counted, the operation requiring several weeks. In 1909 such evidences of value amounted to \$1,261,000,000, the maximum sum so transferred in the history of the government. See TREASURY, FEDERAL. D. R. D.

TREASURER, STATE. A state fiscal officer, usually elective, charged with the immediate receipt and disbursement of state funds. Though state depositories have actual custody of these funds, the treasurer receives notice of deposits made by state comptrollers (*see*), sheriffs, other state or local officials who collect state revenues. Subject to warrant from the state comptroller, he effects payments from state funds, either directly or by check on state depositories. His records of treasury receipts and disbursements must tally with those of the comptroller. He must periodically report in detail. Additional duties, varying among states, include service on boards of equalization, assessment, and other state commissions. See AUDITOR, STATE; FINANCE, STATE SYSTEMS OF; STATE DEPARTMENTS, HEADS OF. **References:** Constitution and laws of the several states, which define powers and duties of State Treasurer; W. Wilson, *The State* (1898), 505; J. Bryce, *American Commonwealth* (4th ed., 1910), I, 497-499; R. L. Ashley, *American Federal State* (1903), § 432. E. H. V.

TREASURY DEPARTMENT

General Organization.—The Treasury Department is primarily concerned with the collection of the government's revenues, the custody and disbursement of the government's funds, and the issue and redemption of the currency. As incidental to these functions it has assumed the duties of coinage of metallic money, manufacture of paper money, supervision of national banks, and transactions in the public debt. In close relation stand the functions of preventing counterfeiting, for which purpose the Secret Service is conducted, and the protection of customs revenue, for which, among other purposes, the Revenue Cutter Service exists. There have been injected from time to time into the work of the department, however, a few really extraneous functions, including the supervision of the construction of public buildings and their maintenance;

the Life-Saving Service, and the conduct of the Public Health Service, which are still handled by the Treasury; and the group of functions transferred in 1903 from the Treasury to the Department of Commerce and Labor, including the conduct of the Lighthouse Establishment, Steamboat Inspection, the Bureau of Navigation, the United States Shipping Commissioners, the Bureau of Standards, the Coast and Geodetic Survey, the Bureau of Statistics, and the Immigration Service. As it now exists the Treasury Department is an organization of considerable complexity, with 7,350 employees in Washington, and an outside service employing 20,000.

At the head of the system stands the Secretary of the Treasury, appointed by the President, and ranking next in dignity in the Cabinet to the Secretary of State. The Secretary

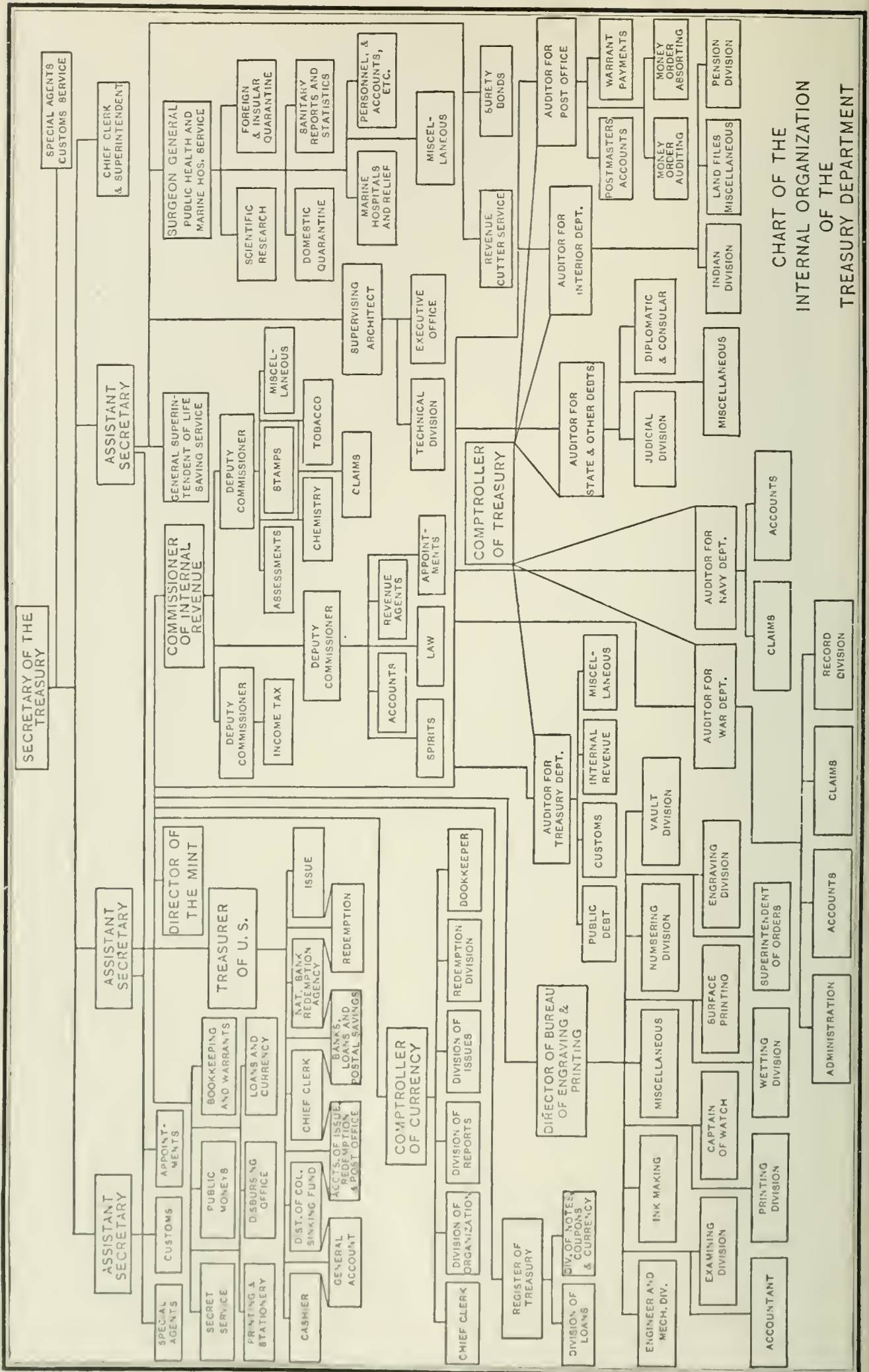
has three assistants—A, B, and C, who in theory are of cöordinate rank.

First Group of Functions.—Assistant Secretary A is spoken of as being "in charge of the Fiscal Bureaus." Subject to his authority are: the Treasurer of the United States, an important bureau head responsible for millions of cash, charged with the receipt and disbursement of public funds deposited in the treasury at Washington, in the subtreasuries, in the national bank depositories, and elsewhere; trustee of the bonds held to secure national bank circulation and public deposits in banks; fiscal agent for the payment of interest on the public debt; redemption agent for national bank notes and custodian of the five per cent, redemption fund held in lawful money against the national bank notes; also the Comptroller of the Currency, a bureau head of even greater importance, charged with the supervision of the seven thousand national banks, which report to him at the times he names, which his examiners scrutinize periodically for faults of management, and whose circulating notes he issues, and, later, after they have been redeemed, cancels; also, the Director of the Mint, who supervises the four mints and eight assay offices of the United States; also, the Director of the Bureau of Engraving and Printing, in whose great factory at Washington the paper money, bonds, postage stamps and internal revenue stamps of the government are manufactured; also the Comptroller of the Treasury, an important legal official, who passes upon questions affecting appropriations and their purposes, and who stands at the head of the accounting system; also, the auditors, one for the Treasury Department, one for the War Department, one for the Interior, one for the Navy, one for the Post Office Department, and one for the State and other Departments not elsewhere audited, six in all, in whose offices payments made in the business of the respective departments are subjected to scrutiny; also, the Register of the Treasury, the official in whose bureau the bonds of the United States are issued. Certain smaller divisions, independent of any bureau, are spoken of as belonging to the Secretary's Office. Of these the following are in charge of Assistant Secretary A, namely, the Secret Service Division, charged with the detective work of preventing counterfeiting and bringing counterfeiters to justice; the Division of Bookkeeping and Warrants, which performs the bulk of the treasury bookkeeping, dealing with payments by warrants and the covering of government receipts into the Treasury, the bookkeeping of receipts, appropriations and disbursements, the preparation of much statistical data on these subjects, and the compilation in the various estimates and the Digest of Appropriations of such a phantom of a budget as is possible under present fiscal legislation; the Loans and Currency Division, which acts as the Secretary's eye upon various bureau

heads in bond issues and matters affecting the currency; the Division of Printing and Stationery, which supervises the printing and binding for the entire Treasury service—dealing with the Government Printing Office, and, to a less extent, the Bureau of Engraving and Printing, the latter preparing the finer work, checks, drafts, customs stamps, etc.—supplies the service with stationery, and handles the treasury advertising; the Division of Public Moneys, which exercises certain supervision over the nine subtreasuries, designates national bank depositories and exacts the deposit of proper securities from them, records receipts into the Treasury, issues directions to public officers with respect to their deposits, and to depositories with respect to the safekeeping of the funds, and performs certain other duties in connection with the public moneys; the department disbursing clerk, an official to whom public moneys from the Treasury are advanced, out of which he pays the bulk of the salaries and expenses of the Department in the District of Columbia, and certain salaries and expenses of services outside of Washington, when these payments cannot be conveniently made by a local disbursing officer; and the Mail and Files Division, in which are kept the records of incoming and outgoing mail, and with whom obsolete files are stored. The distribution of work among the assistant secretaries is, as appears from the above, a matter of casual growth and not justified by any logical analysis of functions.

Second Group of Functions.—The work of Assistant Secretary B further demonstrates this lack of classification; he is in charge of bureaus and subdivisions carrying on entirely miscellaneous functions. In his jurisdiction are the Commissioner of Internal Revenue, a powerful bureau chief, with a widely scattered force, who through his 67 collectors collects the government taxes upon spirits, tobacco and the like, and the important corporation tax; the Supervising Architect, under whose direction government buildings all over the country are constructed and maintained; the Life-Saving Service, with over 275 stations and a force of 2,311 men; the Public Health Service, charged with supervision of marine hospitals and the care of sick and disabled seamen, the conduct of the quarantine service and the prevention of the introduction and spread of contagious diseases; the Revenue Cutter Service, with 45 craft, including cutters and launches, which render assistance to vessels in distress, enforce the navigation laws, protect the customs revenues and coöperate with the Navy when so directed by the President; and an important phase of the work of the Appointments Division, namely, that of supervising the bonding of those treasury employees from whom bonds are required.

Third Group of Functions.—The work of Assistant Secretary C differs from that of either



of his two associates in being a perfect unit. He is concerned only with customs, and in his jurisdiction are two divisions of the Secretary's office—the Division of Customs and the Division of Special Agents. The Customs Service, of course, includes an organization widely scattered, like the Internal Revenue. Assistant Secretary C controls the collecting officers at all the ports, and the special agents, who, in their various districts, check the work of the collectors and performs particular services with respect to customs questions which may arise. There are 124 collectors, located in districts touching the borders of the country; and there are 39 surveyors, located in interior districts, to whom importations are shipped in bond under the Immediate Transportation Act. Assistant Secretary C and his Customs Division pass upon a great multitude of questions of customs business, the interpretation of the tariff law, and the administration of the service. He comes in closer connection with the Appointments Division, alluded to below, than do either A or B, because not only does that division supervise the personnel of the Customs Service, but it also controls, subject to C, disbursements out of the customs appropriation.

Appointments Division.—The Appointments Division of the Secretary's Office cannot be said to be assigned wholly to any one of the three assistants, but comes in contact with each, in so far as it does work connected with the personnel of the branches of the service attached to the desk of that particular assistant secretary. With respect to Assistant Secretary C is the connection closer, because, as stated above, the Appointments Division controls the appropriation "for collecting the revenue from customs." This division keeps the records of Treasury Department employees, their admission to the service, their promotions, demotions, dismissals and resignations. To it also is assigned, subject to the control of Assistant Secretary B, the work arising in connection with the bonding of employees—a job of no little magnitude when the extent of the "Field Service" is considered, that is, the service outside of Washington.

Chief Clerk.—The Chief Clerk of the department, like the Appointments Division, is not subject to any particular Assistant Secretary, but is an administrative official for the Treasury Department as a whole, an executive head who sees that the work of the whole department is prosecuted with vigor and dispatch. He enforces departmental regulations, superintends the treasury building and other buildings in Washington where treasury work is transacted, has charge of the department vehicles, controls the engineers, watchmen, laborers and other employees who maintain and protect the treasury building and its annexes, expends appropriations for contingent expenses, disburses appropriations for government exhibits at expositions, and performs various odds

and ends of the business of the Secretary's office which cannot be assigned to other bureaus and divisions.

Founding of the Department.—The history of the Treasury Department is divisible into epochs which are defined by important events in the financial history of the Republic. There was no stable or continuous organization during the Revolution. The genesis of the department was the appointment of a standing committee of five by a resolution of Congress in 1776. Two years later, minor treasury offices—a comptroller, an auditor, a treasurer, etc.—were established, and, in 1779, there was created the office of Secretary of the Treasury, which endured only a few months. In 1781, Congress by resolution provided for a "Superintendent of Finance," the position in which Robert Morris rendered distinguished service. The last effort to organize the Treasury Department before the adoption of the Constitution was in 1784, when the Superintendent of Finance was superseded by a board of three commissioners.

The requirements of section 8 are significant; the first session of Congress under the Constitution, established the Treasury Department, with a Secretary, a Comptroller, an Auditor, a Treasurer, a Register, and an Assistant to the Secretary. The duties connected with the offices created by this act are, excepting those of the Register, not different from the duties performed by these officials at the present time. It is of interest that the Treasury's bond stands now at the same figure provided in the act—\$150,000.

The requirements of Section 8 are significant; they forbid any person appointed to any office instituted by the act to be interested in trade or commerce, to be the owner of any sea vessel, to purchase any public lands or to be concerned in the purchase of the securities of any state or of the United States.

Depository of Funds.—Under this organization of the Treasury it was essential to find a depository for the public moneys. During the Confederation these had been deposited in the Bank of North America, a corporation chartered both by Congress and by the Pennsylvania legislature. Hamilton, as first Secretary of the Treasury, reported in 1790 in favor of organizing a corporation, which was chartered the following year by Congress and existed until 1811 as the first Bank of the United States (*see*.) Although Albert Gallatin recommended the renewal of the charter of the bank, when it expired Congress failed to act. In the interregnum that followed, during which the public moneys were deposited in state banks, general distress prevailed. As a result the plan proposed by Secretary Dallas for the incorporation of a federal bank on the same lines as Hamilton's bank was approved by Congress, with a twenty-year charter, beginning 1816 (*see* BANK OF U. S., SECOND). Having

passed through grave difficulties the bank was apparently in stable condition when President Jackson, in 1829, suddenly instituted his attack upon it. In 1833, he began the removal of public deposits from the bank, which, upon the expiration of its charter, ceased altogether to have connection with the government, and reincorporated under Pennsylvania laws. Another decade of disastrous employment of the state banks followed.

The device, adopted in 1846, for the custody of the public moneys was what is known as the Independent Treasury system (*see*). The act, approved August 6 of that year, defined "The Treasury of the United States" as the rooms prepared for the use of the Treasurer and his assistants, the vaults and safes for the keeping of the public moneys in his possession and control, and such other apartments as were provided by the act as places of deposit. Under this act the Treasurer, certain assistant treasurers, certain treasurers of mints, and others acted as custodians of the public funds, from which heterogeneous system grew the independent Treasury as it now exists—the cash room and vaults of the Treasurer at Washington, and the nine subtreasuries, each in charge of an Assistant Treasurer, located at Baltimore, Boston, Chicago, Cincinnati, New Orleans, New York, Philadelphia, St. Louis and San Francisco. The provision that national banks might be made depositories of public moneys marked the first curtailment of the independent treasury system, the principle of which was the sequestration of all government funds in government offices in actual money. The deposits in national banks nominally reached a maximum of \$405,240,785, on April 23, 1879, but this figure is a fictitious one, swollen by the vast credits given the Treasurer of the United States for sale of bonds, at the very height of the refunding operations. Down to 1897, the genuine deposits had rarely exceeded twenty-five millions; they reached their high point on December 27, 1907, when the figures were \$259,994,271.72. During September, 1913, the deposits were in the neighborhood of sixty millions.

Relation to Banks.—Under stress of the Civil War the system of national banks (*see*) was inaugurated. These banks, which were allowed to issue circulating notes on deposits of United States bonds as security, were organized largely to furnish a market for government securities. This they have unquestionably done. They have, too, provided the country with circulating notes, of which about 740 millions were outstanding in September, 1913. They have had far-reaching effects on the organization and powers of the Treasury Department, for the Comptroller of the Currency not only receives, today, the reports of the 7,300 national banks but also examines them through his force of examiners, and issues to them their notes, which he receives back for destruc-

tion when they have been redeemed by the Treasurer of the United States, out of the 5 per cent redemption fund which the banks are required to maintain with the Treasurer in lawful money. The Treasurer is the custodian of the United States securities which the banks deposit to secure their circulation, custodian also of the bonds which they are required to pledge to secure deposits of public funds; a division of his office, called the Division of National Banks, holds in its vaults all these securities, amounting on September 8, 1913, to \$813,139,593.

Relation to General Finances.—The history of the Treasury Department since the Civil War has been marked by the refunding of the government war debt in the seventies; by the resumption of specie payments effected in 1879, under Secretary John Sherman; by a remarkable reduction in the public debt from \$1,723,993,100 in 1880, to \$585,029,330 in 1892; by the successful struggle to maintain the gold reserves, under Secretary Carlisle; and by the extension of the policy of depositing public money in national banks, and the intervention of the Treasury in the money market through such means, under Secretaries Gage and Shaw. The disturbing interference of the Treasury with the amount of money in circulation and in bank reserves, which has resulted from alternating surpluses and deficits, has led to a wide discussion of other means of keeping and disbursing the public moneys, more consonant with modern business practice.

See BANK, CENTRAL; BUDGETS, FEDERAL; CABINET OF THE PRESIDENT; ELASTICITY OF THE CURRENCY; ESTIMATES, TREASURY; EXECUTIVE AND CONGRESS; EXECUTIVE DEPARTMENTS; FINANCIAL POLICY; FINANCIAL POWERS, CONSTITUTIONAL BASIS OF; FINANCIAL STATISTICS; RESERVE ACT, FEDERAL; REVENUE, PUBLIC, COLLECTION OF.

References: J. A. Fairlie, *National Administration* (1905), chs. vii, viii; Benjamin Harrison, *This Country of Ours* (1897), ch. xii; F. A. Vanderlip, "The Treasury" in *Scribner's*, XXXIII (1903), 400-410; H. C. Gauss, *Am. Government* (1908), ch. ix; Secretary of the Treasury, *Annual Reports*; R. Mayo, *Treasury Department* (1847); C. H. Van Tyne and W. G. Leland, *Guide to the Archives of the Government* (1904), 31-72; D. R. Dewey, *Financial Hist. of the U. S.* (1903); A. P. Andrew, "The Treasury and the Banks" in *Quart. Journ. of Econom.*, XXI (1907), 519-568.

A. PIATT ANDREW.

TREASURY, FEDERAL. The Treasury Department was established by act of September 2, 1789. The Secretary of the Treasury is its head, and other officers are assistant secretaries, comptroller, auditors, treasurer and register. Careful provision was made in the original act for protecting government funds (*see* PUBLIC ACCOUNTS). By the act of May

10, 1800, the Secretary of the Treasury was authorized to lay before Congress at each session not only a report on the state of the public finance, but also to submit plans for improving or increasing the revenues.

In the physical care of public moneys, the government has followed a varying policy (see **SUBTREASURY SYSTEM**). At present public funds may be kept in national banks at the discretion of the Secretary of the Treasury, which makes the treasury an important factor in the money market. Between 1899 and 1903 the Treasury on three occasions came to the relief of the money market by making large deposits with banks; and the direction of influence was made the more marked by selecting as depositories those institutions which would agree to take out new circulation.

A further responsibility is imposed upon the Treasury in the maintenance of the gold standard. The Government has issued a large amount of paper money and coined silver of depreciated value. It is the duty of the Treasury to see that these forms of money are kept at a parity with gold. For this it has, since the resumption of specie payments in 1879, kept a reserve stock of gold; and by the act of 1900 is now empowered to sell bonds. The accumulation of gold is the withdrawal of so much metal otherwise accessible for commercial and banking use; and the selling of bonds necessitates a diversion of capital which would otherwise be employed in industry. Thus again the Treasury is involved in most intimate relationships with the operations of business.

See **AUDITOR OF THE TREASURY; COMPTROLLER OF THE TREASURY; PUBLIC ACCOUNTS; TREASURER OF THE UNITED STATES.**

DAVIS R. DEWEY.

TREASURY NOTES. First Issues (1812-1816).—Influenced by the disastrous experience in the issue of bills of credit during the Revolution, the framers of the Constitution deliberately voted to omit from the expressed powers of Congress the right to "emit bills of credit of the United States." Many at the time believed that the omission of this power was equivalent to a prohibition, but when financial necessities arose in the war with England in 1812, there was little dissent, on constitutional grounds, to a proposal for the issue of treasury notes. During this war period five issues were made, in all amounting to \$36,680,794. The earlier issues were in large denominations, not intended to pass into general circulation. All save the last were made payable in one year; and all except notes of small denominations bore interest at the rate of five and two-fifths per cent. They were all fundable into stock or bonds. None had the legal tender quality, and they passed at par until the banks suspended specie payments in August, 1814. At the close of the war these

treasury notes were rapidly funded into long term securities.

Second Issues (1837-1847).—Similar issues were made under eight different acts during the years 1837 to 1843, owing to the embarrassments caused by the panic of 1837. They were again resorted to in the war with Mexico in 1846, and after the panic of 1857. The more conservative restrictions of the first issues were retained, as to speedy retirement, omission of legal tender quality, the bearing of interest, and their issue in denominations of not less than \$50.

Civil War Issues.—During the Civil War many kinds of treasury notes were issued. They varied as to time of payment; there were one year, two year, and three year notes, and notes with no definite date of retirement, as, for example, the demand notes of 1861, the greenbacks, and the fractional currency. These three latter issues carried no interest, while the others bore interest of five, six, six compound, and seven and three-tenths per cent (2 cents per day on each \$100). To the greenbacks, compound interest notes, and a small issue of five per cent notes was given the quality of legal tender. In all, \$1,830,000,000 were issued, of which, however, \$482,000,000 were redeemed during the war years, 1861-1865.

Remaining Issues.—At the close of the war all save the greenbacks and fractional currency were converted into bonds, and in 1876 the fractional notes were retired. Opposition to further contraction led to the permanent retention of the legal tender greenbacks, of which \$346,000,000 are still carried on the treasury books as an outstanding liability. In 1890 a new issue of treasury notes redeemable "in coin" was authorized by the Sherman Silver Act, and under this provision \$153,000,000 were issued. By subsequent legislation they were retired, and in 1912 the volume still outstanding was but \$2,929,000.

Since the resumption of specie payments in 1879 treasury notes have been redeemed on presentation; and under the Gold Standard Act of 1900 provision is made for their more complete protection through the purchase of gold by the sale of bonds if the gold reserve is endangered.

United States notes are issued in denominations of five, ten, twenty, fifty, one hundred, five hundred, and one thousand dollars, one half being in denominations of ten dollars.

See **GOLD RESERVE; LEGAL TENDER CONTROVERSY; PAPER MONEY IN THE U. S.; RESUMPTION OF SPECIE PAYMENTS.**

References: J. J. KNOX, *U. S. Notes* (1884); D. R. Dewey, *Financial Hist. of the U. S.* (1903), 136-138, 232-234, 284-297, 312-313, 469-471; H. White, *Money and Banking* (4th ed., 1911), 79-139.

DAVIS R. DEWEY.

TREASURY, SECRETARIES OF. From Feb. 20, 1781 to Nov. 1, 1784, Robert Morris

served, under the Articles of Confederation, as Superintendent of Finance. Following is a list of Secretaries of the Treasury, since the establishment of the department:

1789 (Sept. 11)-1795 (Jan. 31), Alexander Hamilton.
 1795 (Feb. 2)-1800 (Dec. 31), Oliver Wolcott, Jr.
 1801 (Jan. 1)-1801 (May 6), Samuel Dexter.
 1801 (May 14)-1814 (Feb. 9), Albert Gallatin (re-commissioned Jan. 26, 1802).
 1813 (Apr. 21), William Jones (Sec. of Navy) acted as Sec. of State during Gallatin's stay in Europe in 1813.
 1814 (Feb. 9)-1814 (Sept. 26), Geo. W. Campbell.
 1814 (Oct. 6)-1816 (Oct. 21), Alexander J. Dallas.
 1816 (Oct. 22)-1825 (Mar. 3), William H. Crawford (re-commissioned Mar. 5, 1817).
 1825 (Mar. 7), Samuel L. Southard (Sec. of Navy; *ad int.*).
 1825 (Mar. 7)-1829 (Mar. 3), Richard Rush.
 1829 (Mar. 6)-1831 (June 20), Samuel D. Ingham.
 1831 (June 21), Ashbury Dickens (Chief Clerk; *ad int.*).
 1831 (Aug. 8)-1833 (May 29), Louis McLane (re-commissioned Jan. 13, 1832).
 1833 (May 29)-1833 (Sept. 23), Wm. J. Duane.
 1833 (Sept. 23)-1834 (June 25), Roger B. Taney.
 1834 (June 25), McClintock Young (Chief Clerk; *ad int.*).
 1834 (June 27)-1841 (Mar. 3), Levi Woodbury.
 1841 (Mar. 4), McClintock Young (Chief Clerk; *ad int.*).
 1841 (Mar. 5)-1841 (Sept. 11), Thomas Ewing.
 1841 (Sept. 13), McClintock Young (Chief Clerk; *ad int.*).
 1841 (Sept. 13)-1843 (Feb. 28), Walter Forward.
 1843 (Mar. 1), McClintock Young (Chief Clerk; *ad int.*).
 1843 (Mar. 3)-1844 (May 2), John C. Spencer.
 1844 (May 2), McClintock Young (Chief Clerk; *ad int.*).
 1844 (June 15)-1845 (Mar. 6), George M. Bibb.
 1845 (Mar. 6)-1849 (Mar. 5), Robert J. Walker.
 1849 (Mar. 6), McClintock Young (Chief Clerk; *ad int.*).
 1849 (Mar. 8)-1850 (July 22), William M. Meredith.
 1850 (July 23)-1853 (Mar. 7), Thomas Corwin.
 1853 (Mar. 7)-1857 (Mar. 6), James Guthrie.
 1857 (Mar. 6)-1860 (Dec. 8), Howell Cobb.
 1860 (Dec. 10), Isaac Toucey (Sec. Navy; *ad int.*).
 1860 (Dec. 12)-1861 (Jan. 11), Philip F. Thomas.
 1861 (Jan. 11)-1861 (Mar. 5), John A. Dix.
 1861 (Mar. 5)-1864 (June 30), Salmon P. Chase.
 1864 (July 1), G. Harrington (Asst. Sec.; *ad int.*).
 1864 (July 1)-1865 (Mar. 3), William P. Fessenden.
 1865 (Mar. 4), G. Harrington (Asst. Sec.; *ad int.*).
 1865 (Mar. 7)-1869 (Mar. 4), Hugh McCulloch.
 1869 (Mar. 5), John F. Hartley (Asst. Sec.; *ad int.*).
 1869 (Mar. 11)-1873 (Mar. 17), George S. Boutwell.
 1873 (Mar. 17)-1874 (June 2), Wm. A. Richardson.
 1874 (June 2)-1876 (June 20), Benj. H. Bristow.
 1876 (June 21), Charles F. Conant (Asst. Sec.; *ad int.*).
 1876 (June 21)-1877 (Mar. 8), Lot M. Morrill.
 1877 (Mar. 8)-1881 (Mar. 3), John Sherman.
 1881 (Mar. 4), Henry F. French (Asst. Sec.; *ad int.*).
 1881 (Mar. 5)-1881 (Oct. 27), William Windom.
 1881 (Oct. 27)-1884 (Sept. 4), Charles J. Folger.
 1881 (Sept. 4), Chas. E. Coon (Asst. Sec.; *ad int.*).
 1884 (Sept. 8), Henry F. French (Asst. Sec.; *ad int.*).
 1884 (Sept. 15), C. E. Coon (Asst. Sec.; *ad int.*).
 1884 (Sept. 24)-1884 (Oct. 28), Walter Q. Gresham.
 1884 (Oct. 28)-1885 (Mar. 6), Hugh McCulloch (re-commissioned Dec. 18, 1884).
 1884 (Oct. 29), Henry F. French (Asst. Sec.; *ad int.*).
 1885 (Mar. 6)-1887 (Mar. 31), Daniel Manning.
 1887 (Apr. 1)-1889 (Mar. 5), Charles S. Fairchild (re-commissioned Dec. 15, 1887).
 1889 (Mar. 5)-1891 (Jan. 29), William Windom.
 1891 (Jan. 30), Alfred B. Settleton (Asst. Sec.; *ad int.*).
 1891 (Feb. 21)-1892 (Mar. 6), Charles Foster.
 1892 (Mar. 6)-1897 (Mar. 5), John G. Carlisle.
 1897 (Mar. 5)-1902 (Jan. 9), Lyman J. Gage (re-commissioned March 5, 1901).
 1902 (Jan. 9)-1907 (Mar. 4), Leslie M. Shaw (re-commissioned March 6, 1905).
 1907 (Mar. 4)-1909 (Mar. 5), George B. Cortelyou.
 1909 (Mar. 5)-1913 (Mar. 5), Franklin MacVeagh.
 1913 (Mar. 5), William G. McAdoo.

ALBERT BUSHNELL HART.

TREATIES AS THE LAW OF THE LAND.
Treaties as Compacts.—By international law a treaty is a compact between independent sovereign states or sovereign powers determining their respective rights or obligations as between themselves or between each and the subjects of the other, and they are not usually regarded as a part of the internal or municipal law of either of the contracting parties. They differ from statutes in that they relate to the rights and obligations of the sovereign powers, while statutes relate to the rights and obligations of citizens or subjects, recognized, protected and enforced by a sovereign power in the regulation of its internal affairs.

Under the Federal Constitution.—But by the Constitution of the United States which denies the treaty making power to the states (Art. I, Sec. x, ¶ 1) and vests it in the President and Senate (Art. II, Sec. ii, ¶ 2) it is expressly declared that treaties, as well as the Constitution and laws of the United States shall be the supreme law of the land (Art. VI, ¶ 2); and it is provided that the judicial power of the United States shall extend to all cases arising under the Constitution, the laws and the treaties of the United States (Art. III, Sec. ii, ¶ 1). It is evident, therefore, that under our constitutional system treaties as a part of the law of the land are coördinate in effect with statutes, although they are subordinate, of course, to constitutional provisions, for the treaty-making power, being derived from the Constitution, must necessarily be limited by it. As no express limitations are imposed on the power to make treaties other than those relating to the method in which such power may be exercised, limitations on the scope of the treaty power are only those implied, and no occasion has arisen for specifically determining such limitations; but it is well settled that as between the provisions of a treaty which is within the general scope of the power to make it and a state statute, the provisions of the treaty are paramount and those of the state statute must yield although the statute may be within the general scope of the legislative power in the state, just as state statutes must yield to acts of Congress relating to proper matter of federal legislation.

Treaties and Federal Statutes.—With reference to their authority, treaties and statutes of the United States are of the same grade, and in case of conflict the provision of later date, whether it be that of the treaty or of the statute, must prevail as it is the later expression of the sovereign will. In construing either a statute or a treaty the courts will, in the absence of an express repeal, endeavor so to interpret them as that they shall not be inconsistent (*see CONSTRUCTION AND INTERPRETATION*); but it is always to be borne in mind that a statute which is inconsistent with the Constitution or in excess of the legislative power is invalid, and likewise that a treaty

which is in excess of the treaty making power (if so determined) would be invalid. While the obligations of the United States to a foreign government entered into under the treaty making power cannot be abrogated by statute, nevertheless, so far as a treaty is declared to be the supreme law of the land it must yield to subsequent valid legislation.

References: C. H. Butler, *Treaty-Making Power* (1902); W. W. Willoughby, *Constitutional Law* (1910), 7, 450-518.

EMLIN McCLAIN.

TREATIES, NEGOTIATION OF, BY THE UNITED STATES. See NEGOTIATION OF TREATIES BY THE UNITED STATES.

TREATIES OF THE UNITED STATES

Number.—Since 1778 the government of the United States has entered into more than 600 agreements (treaties, conventions, and less formal arrangements) with over 80 foreign states. The greatest number among these has been with Great Britain (about 80). There have been approximately 50 with Mexico and those with Spain, France, and Japan follow numerically according to the order given. More than 100 arrangements have been commercial agreements with over 60 countries; 80 conventions have provided for the settlement of claims. Of this class 11 have been with Mexico and 8 with Great Britain. Of the ten most important treaties to which the United States has been a party, five have been with Great Britain, two with France, two with Spain and one with Mexico.

Early Principles.—Upon the same day, June 11, 1776, when committees were appointed by the Continental Congress to draw up articles of independence and of union, a third committee was selected to draft treaties to be proposed to foreign-powers. In September, 1776, the Congress adopted with but few alterations the draft of a proposed commercial treaty. The treaty as signed in 1778 follows to a remarkable degree the provisions of the draft and contains "the germ (often expressed in the identical language) of many subsequent treaties of the United States."

Early Method.—The machinery for the conduct of foreign affairs during the Confederation was so clumsy that the efforts of its diplomatic agents at home and abroad were seriously interfered with. Congress as the ratifying power undertook close supervision of all instructions. This interference was sometimes so great as to balk the negotiation, as in the Jay-Gardoqui negotiation of 1785, when Congress requested that Jay submit to it all propositions received or made by him. The office of Secretary of Foreign Affairs, created in 1781, never became more than a dignified clerkship. Fortunately, perhaps, few negotiations were attempted, and no treaty was signed, under the eye of Congress. Indeed, the Florida treaty of 1819 signed at Washington by John Quincy Adams was the first to be executed at home. While under the Federal Constitution the Senate shared in the

treaty-making power, the executive branch assumed the direction of foreign affairs, and the first executive department to be created by Congress was the Department of Foreign Affairs, the name of which was soon changed to Department of State.

Subjects.—During the administrations of Washington, Adams, and Jefferson the negotiation of treaties was infrequent. The Jay Treaty (1794), that with Spain (1795), and the Louisiana Treaty (1803), were the only ones of importance in this period, and from 1805 to 1814 few treaties were signed and but one was ratified. During the Napoleonic wars diplomatic controversy centered about the interpretation of old treaties and the rights of states arising independently of treaty.

Many of the earliest agreements were treaties of "amity and commerce," and covered a group of subjects germane to the title. As the social and commercial relations of the United States increased in importance and complexity, treaties or conventions were negotiated upon specific subjects. Thus, separate consular conventions have been executed with 15 countries, and the United States has had more than 100 consular arrangements with over 50 countries.

The territorial growth of the United States has resulted in more than 40 ratified arrangements as to boundaries. Four of these were treaties of peace, four were purchase-treaties, and the rest aimed at a settlement of boundary controversies.

Commercial.—After the ratification of the Florida Treaty the United States turned its attention to the formation of commercial relations with the new Spanish-American states and a series of commercial treaties, beginning with that with Columbia (1824), was the result. During the middle decades of the last century the commercial treaties with European countries were largely rewritten. Diplomatic relations with Turkey resulted in the treaty of 1830, which contains provisions for extra-territoriality, the interpretation of which has led to long and fruitless controversy. Attention to the Far East led to the negotiation by Edmund Roberts of treaties with Muscat and Siam (1833). The United States availed itself of the opening of China by Great Britain by negotiating through Caleb Cushing the

treaty of 1844. The treaty with Japan, signed by Commodore Perry in 1854, was followed by the important treaties of 1857 and 1858 negotiated by Townsend Harris. Contact with states of alien civilization has resulted in eighteen treaties conceding extraterritorial rights to American citizens.

Changing theories of relationship between state and nation are to be found in the agreements for the abolition of *droit d'aubaine*, the first of which appears in the commercial treaty of 1778 with France, and later in the series of treaties signed in 1844-46 by Henry Wheaton with the smaller German states. The negotiation by George Bancroft of naturalization treaties with several German states in 1868 and 1869 witnesses to the practical abandonment of the old doctrines of indelible allegiance.

Extradition.—Better facilities of ocean navigation after the introduction of steam, and the consequent increase of intercommunication demanded a system for the apprehension of fugitives from justice. Extradition, which was temporarily applied to two offenses by the Jay treaty, was made permanent and the number of offenses vastly increased under the Webster-Ashburton treaty of 1842. Special extradition treaties have been made with more than 40 countries.

Arbitration.—The history of modern international arbitration begins with the Jay Treaty (*see*), since which time the United States has agreed to the settlement of more than 50 disputes by arbitration. These form a valuable foundation for the group of general arbitration treaties the first of which was the Olney-Pauncefote treaty of 1897, rejected by the Senate. The fresh impetus given to arbitration by the Hague Conferences has produced the rapidly increasing group of general arbitration treaties now numbering about thirty.

International Unions.—Increasing interdependence of states has demanded some sort of international administration. This has been accomplished in part by a series of international acts to which the United States is a party either originally or by adhesion or accession. Among them are: the convention of Paris, 1875, establishing an international bureau of weights and measures; of 1884, for the protection of submarine cables; of 1886, for the interchange of official documents; of 1890, for the formation of an international union for the publication of customs-tariffs; of 1897, in reference to the Universal Postal Union; of 1905, for an international institute of agriculture; and of 1907, for the establishment of an international bureau of public health. The United States is also a party to the conventions on international copyright (1902), for sanitation (1903 and 1905), and to the Geneva (Red Cross) convention of 1906. It has become a party by adhesion or accession

to the following: conventions for the protection of industrial property (1883, 1891, and 1900), the Brussels conventions of 1899 and 1906 regulating the liquor-traffic in certain parts of Africa; and the Paris convention of 1904 relative to the white-slave traffic.

Multipartite treaties of a more general character to which the United States has been a party are: the Brussels Anti-Slavery Convention of 1890, the general acts and conventions of the Hague Conferences of 1899 and 1907, the general act of the Algeciras (Morocco) Conference of 1906, and the declaration concerning the laws of naval war of 1909 (the Declaration of London).

Ratification and Rejection.—Although the ratification of treaties by the Continental Congress was necessary, it withheld this action but once, in rejecting the French consular convention negotiated in 1784 by Franklin. Under the Constitution (Art. II, Sec. ii, ¶ 2), the Senate inaugurated a policy of amending treaties in the exercise of its ratifying power. Indeed no outright rejection of a treaty submitted to the Senate occurred until 1824, when that body so acted in reference to the treaties for the suppression of the slave trade signed with Colombia. Other treaties so defeated have been: that with Mexico (commerce, 1828), with the Swiss Confederation (1835), with Texas (annexation, 1844), with the German Zollverein (1844), with Hawaii (1855), with Mexico (transit and commerce, 1859), with Spain (claims, 1860), with Hawaii (reciprocity, 1867), with Denmark (cession of Danish West Indies, 1867), and with Santo Domingo (annexation, 1869). The Senate rejected the following treaties with Great Britain: the Johnson-Clarendon treaty of 1869; the fisheries treaty of 1888; and the Olney-Pauncefote arbitration treaty of 1897. Several reciprocity treaties, including that with France (1899), were also rejected.

Amendment.—The Senate amended the Jay Treaty by the excision of article 12, to which Great Britain assented. Not infrequently the Senate's amendments have been so radical as to make the treaty unacceptable to the other contracting power. This was the case with the King-Hawkesbury convention with Great Britain (northwestern boundary, 1803). Other treaties with Great Britain thus made objectionable were the Dallas-Clarendon convention (canal question, 1854), the extradition convention of 1886, and the first Hay-Pauncefote treaty, 1900. Other instances where the Senate's amendments contributed to the defeat of the treaty are: Persia (commerce, 1851), Nicaragua (extradition, 1855), Salvador (extradition, 1862), Prussia (naturalization, 1868), Guatemala (extradition, 1870), and Mexico (boundaries, 1888).

Treaties have sometimes failed because not ratified by the other contracting power. Instances of this are the Chinese treaty of 1888

and the Hay-Herran treaty of 1903 with Colombia. On the other hand about 70 treaties have been amended by the Senate and afterwards ratified as amended.

President's Authority.—The convention signed at London in 1803 by Monroe and Pinckney was not submitted to the Senate by Jefferson. This precedent has been followed not infrequently and the following are among the treaties withheld by the President: Mexico (transit over Tehuantepec, 1853), Colombia (extradition, 1870), Switzerland (trade-marks, 1885), the general act of the Berlin Congo Conference (1885), and the arbitration convention of the Pan-American Conference of 1890. Moreover the President may refuse to exchange ratifications if the Senate's amendments are unsatisfactory to him. Polk so acted in 1845 with the extradition treaty with Prussia. Again, a pending treaty may be withdrawn from the Senate by the President. This was done by Arthur (Belgium, 1884), by Cleveland in a number of instances (reciprocity treaty with Spain, 1884, canal treaty with Nicaragua, 1884, annexation treaty with Hawaii, 1893); and by Roosevelt (commercial convention with Santo Domingo, 1900, and Alaskan boundary convention with Great Britain, 1897). Withdrawals of treaties by the President in order to insert minor changes have frequently occurred.

Delays.—Delays in the ratification of treaties have often resulted through the inaction of the Senate, or of the ratifying agencies of other powers. The Algiers treaty of 1816 lay forgotten in the Department of State nearly five years before it was transmitted to the Senate. The Spanish Convention of 1802 was not ratified till the session of 1818-19. The boundary treaty of 1828 with Mexico was not ratified until 1832, those of 1833 with Muscat and Siam not until 1837, and that of 1850 with Switzerland in 1855.

The Florida treaty of 1819 provided for the exchange of ratifications within six months. The Senate acted promptly while Spain delayed two years. Upon the receipt of the latter's ratification the Senate again acted as if *de novo* and the treaty was then proclaimed by the President. Since that time when a treaty contains a time-limit for ratification and this period has lapsed, it has become customary to add an additional article providing for a new interval and this is presented to the Senate for approval. Recent treaties usually provide that ratifications are to be exchanged as soon as possible and not within a specified time.

Abrogation.—Treaties have been abrogated by several methods: (1) by Act of Congress (*e. g.*, the French treaty of alliance, 1778); (2) by expiration of time set forth in the treaty (*e. g.*, the Jay treaty, in part, 1794-1807, Prussia, 1785-1796; Central America, 1824-1838); (3) by notice given as permitted by the treaty

e. g., the joint-occupation convention of 1827 with Great Britain, notice given in 1846; parts of the treaty of Washington, 1871, denounced by Great Britain in 1885); (4) by the absorption of the contracting power into another nationality (*e. g.*, Algiers absorbed by France, 1830; Hanover by Prussia, 1866, the South African Republic by Great Britain, 1900, and Corea by Japan, 1910); (5) by the dissolution of federations or unions (*e. g.*, Peru-Bolivia, 1839, and to a certain extent, Norway and Sweden in 1905); on the other hand the annexation of Texas (1845) and of Hawaii (1898) by the United States operated to abrogate the treaties made by them while independent; (6) by the substitution of other agreements by act of the parties (*e. g.*, the Japanese treaty of 1911 for that of 1894); (7) by war (*e. g.*, parts of the treaties of 1783, 1794 and 1802 with Great Britain by the War of 1812; of that of 1831 with Mexico, by the Mexican War). By a decree of the Spanish Government during the Spanish-American War all treaties between the two countries were declared terminated. Nevertheless, after the war Spain finally agreed to make payments upon claims arising under the treaty of 1834.

See ANNEXATIONS TO THE UNITED STATES; ARBITRATIONS, AMERICAN; COMMERCE, INTERNATIONAL; DIPLOMATIC AGENT; FISHERIES, INTERNATIONAL; INTERNATIONAL LAW, INFLUENCE OF THE U. S. ON; INTERNATIONAL UNIONS; NEGOTIATION OF TREATIES BY THE UNITED STATES; PEACE, CONCLUSION OF; RATIFICATION OF TREATIES BY THE UNITED STATES; TREATIES IN INTERNATIONAL LAW.

References: *Treaties and Conventions Concluded between the U. S. and other Powers*, (1873, 1889), contains the valuable notes upon treaties by J. C. B. Davis; W. M. Malloy, *Treaties, Conventions and Agreements between U. S. and other Powers, 1776-1909* (1910), Sen. Docs., 61 Cong., 2 Sess. (1913), 357; J. B. Moore, *Digest of Int. Law* (1906), V, 155-387, *Am. Diplomacy* (1905); S. B. Crandall, "Treaties and Executive Agreements" in *Pol. Sci. Quart.*, XX (Sept., 1905), 385-420, *Making and Enforcing of Treaties* (1904); C. H. Butler, *Treaty-Making Power*, (1902); J. W. Foster, *Century of Am. Diplomacy* (1900), *Practice of Diplomacy* (1906), *Diplomacy in the Orient* (1904); A. B. Hart, *Foundations of Am. Foreign Policy* (1901).

J. S. REEVES.

TREATIES IN INTERNATIONAL LAW.

Definition.—"A treaty is an agreement between two or more states in conformity to law. In a broad sense the term treaty is used to include all international agreements; in a strict sense the term treaty applies to an international agreement of a general character, or covering several subjects—as a treaty of peace, or amity, commerce and navigation."

Agreements less than Treaties.—International agreements relating to a single subject or to matters of minor importance are usually entitled conventions—such as conventions in regard to naturalization, extradition, claims, etc. There are many international compacts which bind a large number of states, postal conventions, the Hague Conventions, etc. The body of written international agreement is very large and forms a basis from which many of the principles of international law can be adduced. The international agreements to which the United States is a party number more than three hundred.

A protocol, the official minutes of a conference, may be signed by the plenipotentiaries and have binding force. Notes are usually unsigned résumés of diplomatic conversations. Memoranda are sometimes handed by one diplomat to another as showing points which they wish to make in a manner somewhat more definite than might be the case from an ordinary interview. Declarations are usually formal and signed statements of principles which states intend to observe in their relations with one another, as in the first article of the Declaration of Paris of 1856, "privateering is and remains abolished." This differs from such a document as a declaration of war which is a formal statement of the purpose of one state to resort to force to attain certain ends, usually also giving reasons in justification of its action.

The making of a treaty is a solemn international act; and when concluded the treaty is according to its terms binding upon the signatories. The less formal documents, notes, memoranda, etc., vary in force according as they receive subsequent assent from the treaty making authority within the state or are generally observed.

Making Treaties.—According to the Constitution of the United States the President "Shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur" (Art. II, sec. ii, ¶ 2). Treaties thus made "shall be the supreme law of the land" (Art. VI, ¶ 2). The word "treaty" as here used refers to the various forms of international agreements which require ratification by the Senate. It is not yet determined what may be the force of "identical notes" such as were exchanged by Ambassador Takahira on behalf of the Japanese Government and Secretary Root on behalf of the United States Government on November 30, 1908 (see JAPAN, DIPLOMATIC RELATIONS WITH). These notes define the policy of the two Governments in the Pacific Ocean in regard to the development of commerce, the maintenance of the *status quo* and the defense of the principle of equal commercial opportunity in China, the reciprocal respect for one another's possessions, and the support "by all pacific means at their dis-

posal" of the independence and integrity of China. It is certain that there would be a strong moral obligation upon the United States and Japan to observe the principles thus formally published.

Limitations.—In the case of *Geofrey vs. Riggs* (133 U. S. 258, 1890), the court said:

The treaty power, as expressed in the Constitution, is in terms unlimited except by those restraints which are found in that instrument against the action of the government or of its departments, and those from the nature of the government and of that of the states.

The treaty power on this theory would not extend, for example, to the cession of any portion of the territory of one of the states of the United States without the consent of the state.

Senate.—While in some states the act of the duly authorized agent in negotiating a treaty may be considered as binding upon the state, this is not the case as regards the United States, which can enter into no treaty without the advice and consent of the Senate; and the Senate may reject, fail to act upon or may amend a draft of a treaty which has been submitted to it for ratification. Crandall says: "Not usually consulted as to the conduct of negotiations, the Senate has freely exercised its coördinate authority in treaty making by means of amendments."

Preliminary Agreements.—Many international agreements are made by the executive, pending the settlement of a difficulty by a more formal method. Such agreements may be preliminary to peace in time of war, like the peace protocol between the United States and Spain, August 12, 1898, the *modi vivendi* concerning the Newfoundland fisheries between the United States and Great Britain.

Taking Effect.—Unless otherwise provided in a treaty, it is generally held that a treaty when ratified becomes operative as between the sovereigns from the date of signature, but so far as individual rights are concerned from the date of exchange of ratification and proclamation (*Dooley vs. United States*, 182 U. S. 222, 1901).

Interpretation.—Treaties should receive reasonable interpretation. In case of doubt the following rules have been generally accepted:

(1) When there is doubt as to the interpretation of the words of a treaty: (a) the words are to be interpreted in their usual sense, unless this involves an absurdity or is incompatible with the general principles of the treaty; (b) words having more than one meaning are interpreted in the more general sense, rather than the technical sense, unless clearly used in the technical sense; (c) words are to be interpreted as understood at the time of the negotiation of the treaty and favorably to the party assuming an obligation.

(2) When there is doubt as to the interpretation of the provisions of a treaty: (a) that which is specifically stated prevails against the more general; (b) provisions operating unequally may be strictly construed by the party suffering the greater burden; (c) single provisions should be interpreted with reference to the whole treaty.

(3) In case of conflict between different

treaties: (a) if between treaties to which the same states are parties, the later treaty is binding; (b) if between earlier and later treaties to which the same states are not parties, the earlier treaty is binding.

Most Favored Nation.—Reciprocity treaties are such as involve an exchange of privileges as in mutual reduction of customs duties. Such treaties are in the nature of a bargain formally entered into by states. The United States has maintained that reciprocity treaties imply equivalent compensation satisfactory to the states concerned; and that other states having in their treaties with the United States the "most favored nation" clause, have no right to claim the privileges granted under reciprocity treaties except "on their ability to offer an equivalent compensation." As was said by the United States Supreme Court:

Our construction is that the most favored nation clause of the treaty with Denmark does not bind the United States to extend to that country, without compensation, privileges which they have conceded to the Hawaiian Islands in exchange for valuable concessions (*Bertram et al. vs. Robertson*, 122 U. S. 116).

The "most favored nation clause" which occurs in many treaties does not, as a treaty of reciprocity, aim to establish a specific relationship between two states, but aims to gain, so far as possible for the state having such a clause in a treaty, advantages conferred upon other states. The first treaty concluded by the United States, that with France of February 6, 1778, in Articles III and IV contains corresponding provisions granting each to the other the "most favored nation" treatment as follows:

The subjects, people and inhabitants of the said United States, and each of them, shall not pay in the ports, havens, roads, the dominion of His Most Christian Majesty, in Europe, any other or greater duties or imports, or what nature soever they may be, or by what name soever called, than those which the most favored nations are, or shall be, obliged to pay.

"Most favored nation" clauses in United States treaties vary in form but it has been announced by Dr. Moore that:

The object sought in all the varying forms of expression is equality of international treatment, protection against the wilful preference of the commercial interests of one nation over another. But the allowance of the same privileges, and the same sacrifice of revenue duties, to a nation which makes no compensation, that had been conceded to another nation for an adequate compensation, instead of maintaining, destroys that equality of market privileges which the 'most favored nation' clause was intended to secure. It concedes for nothing to one friendly nation what the other gets only for a price. It would thus become the source of international inequality and provoke international hostility.

See ANNEXATION, DIPLOMATIC PRINCIPLES OF; ARBITRATION AND PEACE; BOUNDARIES OF THE U. S., EXTERIOR; CAPITULATIONS, TURKISH; COMMERCIAL POLICY AND RELATIONS OF THE UNITED STATES; DIPLOMATIC CORRESPONDENCE; HAGUE CONFERENCES; INTERNATIONAL CONFERENCES; INTERNATIONAL LAW, PRIVATE; MODUS VIVENDI; NEGOTIATIONS OF TREATIES BY

THE UNITED STATES; PAN AMERICAN CONGRESSES; PEACE, CONCLUSION OF; RATIFICATION OF TREATIES BY THE UNITED STATES; SOVEREIGNTY, THEORY OF; TERRITORY IN INTERNATIONAL LAW; diplomatic relations with countries by name.

References: C. H. Butler, *Treaty Making Power of the U. S.* (1902); R. T. Devlin, *Treaty Power* (1908); J. B. Moore, *Digest of Int. Law* (1906), V, 278; S. B. Crandall, *Treaties, Their Making and Enforcement*, (1904); bibliography in A. B. Hart, *Manual* (1908), § 184. G. G. WILSON.

TREE CLAIMS TO PUBLIC LANDS. In order to encourage the afforestation of the western plains Congress offered land to persons who would cultivate it in timber. The act of Mar. 3, 1873, as amended, provided that from 40 to 160 acres might be granted to persons who would devote from 2½ to 10 acres to timber for eight years. The terms of cultivation were strictly defined. Final proof at the end of eight years should show at least 2700 trees planted to each of the ten acres, and at least 675 living trees to the acre. As residence was not required, land could be taken up under this law as well as by homestead entry. Lack of water caused the failure of the measure, but it was early found to be subject to great abuse. Compliance with the conditions was rare, and the law was commonly used as a means of holding up a tract of land for eight years, during which time a relinquishment might be sold to a bona fide settler. The law was repealed Mar. 3, 1891, but the terms for existing entries were lightened, and a cash commutation allowed after four years. There were 290,278 original entries under this act, covering 43,606,344 acres. The 65,263 final entries to June 30, 1912, covered 9,855,944 acres; the 7,105 commuted covered 1,010,305 acres. See HOMESTEADS ON PUBLIC LANDS; LAND GRANTS; PUBLIC LANDS AND PUBLIC LAND POLICY. References: T. Donaldson, *Public Domain* (1884), 360-62, 1047-88, 1285-89. P. J. T.

TRENT AFFAIR. During the American Civil War on November 8, 1861, Captain Wilkes in an American man-of-war overtook the British mail steamer *Trent* sailing between two neutral ports. Captain Wilkes took from the *Trent* two Confederate commissioners, Mason and Slidell, and their secretaries, and then allowed the *Trent* to proceed to England. The British authorities demanded the release of the Confederate agents and an apology. The case aroused much feeling and discussion. Mr. Seward in his letter announcing the release of the Confederates said, "The belligerent captor has a right to prevent the contraband officer, soldier, sailor, minister, messenger or courier from proceeding in his unlawful voyage and reaching the destined scene

of his injurious service;" and maintained that Captain Wilkes erred in not bringing the *Trent* to port instead of taking the Confederates from the vessel. It must be borne in mind that Seward was acting under great pressure upon both sides, and while his argument may have been serviceable from a diplomatic point of view, it has not been regarded as in all respects in accord with international law. See CONFEDERATE STATES OF AMERICA; CONTRABAND; GREAT BRITAIN, DIPLOMATIC RELATION WITH; NEUTRAL TRADE, PRINCIPLES OF. References: T. LeG. Harris, *Trent Affair* (1896); J. B. Moore, *Digest of Int. Law* (1906), VII, 768-779; W. E. Hall, *Int. Law* (1909), 682. G. G. W.

TREVETT vs. WEEDEN. This case arose in Rhode Island in 1786, out of certain acts of the commonwealth legislature, emitting paper currency and denouncing penalties against anyone refusing the same at face value in exchange for commodities. Defendant fell under condemnation of the acts for refusing a tender of said issue for some meat. The case came on for trial in accordance with the provisions of the last of these acts, which provided that the court should "proceed . . . without any jury, by a majority of the judges present, according to the laws of the land." Defendant's attorney, Varnum, relied upon showing that this provision was void as transgressing the colonial charter, which accorded the inhabitants of Rhode Island all "liberties . . . of free and natural subjects . . . as if they were born within the realm of England." This provision, Varnum contended, established trial by jury in Rhode Island upon an indefeasible basis, inasmuch as the colonial charter was now the constitution of the state which, in the language of Vattel, the legislature could not alter "without destroying the basis of their existence." But Varnum also argued that the statute was "repugnant," ordaining trial without jury and yet "according to the laws of the land," which, he contended, made the jurors judges of the facts and the court judges of the law. "This act therefore," he deduced, "is impossible to be executed," "wherefore the common law controls it and adjudges it to be void." The judgment of the court was "that the information was not cognizable before them," and undoubtedly, as Cox remarks, it "plainly repudiated and repelled the challenged statute," but exactly upon which of the two grounds urged by defendant's attorney is not entirely clear. According to the contemporaneous account in the *Providence Gazette*, Judge Howell thought that the statute was "repugnant and unconstitutional," Judge Devoe was like-minded, Judge Tillinghast dwelt upon "the striking repugnancy of the expressions of the act," Judge Hazard and the Chief-Justice voted against taking cognizance without indicating any opinion. Shortly afterward the judges, having

been cited before the Assembly to assign the reasons for their judgment the tendency of which, it was declared, was "to abolish legislative authority," again expressed themselves ambiguously. Subsequently, three of them failed of reappointment. *Trevett vs. Weedon* was popularly regarded as a true constitutional decision and was so treated in the Federal Convention where it had manifest influence in several directions. See COURTS AND UNCONSTITUTIONAL LEGISLATION. References: J. B. Thayer, *Cases on Constitutional Law* (1894-5), I, 73-78; B. Cox, *Judicial Power and Un-B. McMaster, Hist. of the People of the U. S. constitutional Legislation* (1893), 234-248; J. (1883), I, 337-339. E. S. CORWIN.

TRIAL BY JURY. See JURY, PETIT; TRIALS.

TRIALS. A trial in a legal sense is the hearing and determination by a judicial tribunal of the questions of law and fact submitted to it in a case instituted before it, which hearing and determination are in accordance with authorized procedure and the law of the land. The tribunal must be one constituted in accordance with the law and vested with judicial authority, proceeding at an authorized place and time to exercise its functions. The case must be one of which the tribunal has jurisdiction both as to the subject matter and the parties (*see JURISDICTION*). The usual incidents of a trial are that it be public, that the parties have the opportunity to be represented by counsel and to be heard on every question submitted for determination, that they have the opportunity to introduce evidence on issues of fact, that if the trial be to a jury the judge or judges shall decide questions of law relating to the admissibility of evidence and instruct the jury as to the rules of law applicable to the determination of the issues of fact under the evidence, and that the jury return a verdict on the issues of fact (*see JURY, PETIT*), and, finally, in any case, that the judge or judges shall render a decision determining the case as submitted, subject to any review on appeal which may be provided for by law. A court of original jurisdiction for the hearing and determination of cases first instituted in such court is usually composed of only one judge, who, with the assistance of other necessary officers, and a jury when necessary, proceeds to hear and determine the case. A court of appellate jurisdiction is usually composed of three or more judges authorized to review a case on an appeal or writ of error from the decision of a court of original jurisdiction. Under the judicial systems of some of the states, as under the system of the United States (*see COURTS, FEDERAL*) there are intermediate courts of appeal from which further appeals may be taken under some circumstances to the highest appellate court.

There are specific constitutional provisions as to the method of trial in criminal prosecutions such as that the trial must be public and speedy and as to issues of fact by a jury; and that the accused be confronted with the witnesses against him, have compulsory process for obtaining witnesses in his favor and have the assistance of counsel for his defense (Const., Sixth Amendment). A speedy trial is, it appears, one that is brought on without unreasonable delay for preparation; and a public trial is not necessarily one to which every person may obtain admission but one sufficiently free and open to allow the friends of the accused and others to watch the proceedings.

See COUNSEL, RIGHT TO; JURY, GRAND; JURY, PETIT; LAW, CRIMINAL; WITNESSES.

References: *People vs Kerrigan*, 73 Cal. 222; *Ex parte Stanley*, 4 Nev. 113; T. M. Cooley, *Constitutional Limitations* (7th ed., 1903).

EMLIN MCCLAIN.

TRIBUTARY STATES. Although strictly speaking, a state must have sovereignty and must be independent to have status in international law, some political unities which are dependent on other unities are called states. The old idea of a tributary state was that it should pay tribute to the over state. The payment of tribute is still a condition in the relations of some of the so-called states of the Turkish Empire. The term, "tributary states," is, however, used in a loose sense to indicate any political community which may have been a state in the full sense at some time and which without losing its identity in the control of internal affairs is brought under the jurisdiction of another state as regards foreign affairs. The term "tributary state" is also used to describe political unities which have been granted a considerable degree of independence by the state within which they may be. Such states are sometimes called semi-sovereign. See BARBARY POWERS, DIPLOMATIC RELATIONS WITH; DEPENDENT STATES; SOVEREIGNTY, THEORY OF; SUZERAINITY. References: W. E. Hall, *Foreign Powers of the British Crown* (1895); J. B. Moore, *Int. Arbitrations* (1898), V, 5046. G. G. W.

TROLLEY LINES. Surface railway lines operated by electricity are frequently referred to in ordinary conversation as "trolley lines." The phrase originated from one of the striking phenomena of electric car operation with an overhead power distribution system. The trolley pole running on the wire, suspended overhead in the middle of the track, caught the attention of the people and became the distinguishing characteristic by which cars operated by electricity were known. The name "trolley", which technically refers to the pole and the small wheel on the end of it running upon the trolley wire, become the popular phrase to indicate a surface car propelled by electricity

and securing its power from an overhead wire. See INTERURBAN LINES; RAILROADS, STREET. T. C., JR.

TRUANCY. Definition.—A truant is defined as "a child who stays away from school without leave." With the enactment of compulsory education laws, requiring usually that all normal children between the ages of 7 and 14 shall attend school regularly during the school year, the definition of truancy has been enlarged to include not only children who absent themselves from school of their own volition, but also those who are kept out of school by their parents. Truancy now means absence from school of all who are legally required to be sent to school.

In some communities the efficacy of compulsory school laws is impaired by lack of sufficient school facilities—as in New York City where many children can be accommodated only half time, and in many rural districts where the school term attendance is only three or four months during the year.

Compulsory Attendance.—In 1870 compulsory education laws applied to the children of three states included three per cent of the existing child population of the United States; in 1905 compulsory education laws applied to the children of 35 states included 73 per cent of the child population.

In 1906 the Commissioner of Education reported compulsory school laws in 35 states as follows:

State	Age	Annual Period
Arizona -----	8 to 14	24 weeks
California -----	8 to 14	Full term
Colorado -----	8 to 16	Full term
Connecticut -----	7 to 16	Full term
Delaware -----	7 to 14	20 weeks
District of Columbia -----	8 to 12	Full term
Idaho -----	8 to 16	Full term
Illinois -----	7 to 16	At least 110 days
Indiana -----	7 to 14	Full term
Iowa -----	7 to 14	16 weeks
Kansas -----	8 to 15	Full term
Maryland -----	7 to 14	8 weeks
Massachusetts -----	7 to 14	Full term
Michigan -----	7 to 15	Full term
Minnesota -----	8 to 16	Full term
Missouri -----	8 to 14	At least $\frac{1}{2}$ term
Montana -----	8 to 14	At least 16 weeks
Nebraska -----	7 to 15	At least 12 weeks
Nevada -----	8 to 14	16 weeks
New Hampshire -----	8 to 14	Full term
New Jersey -----	7 to 14	Full term
New Mexico -----	7 to 14	3 months
New York -----	8 to 16	Full term
North Carolina -----	8 to 14	16 weeks
North Dakota -----	8 to 14	Full term
Ohio -----	8 to 14	Full term
Oklahoma -----	8 to 16	3 months
Oregon -----	9 to 14	Full term
Pennsylvania -----	8 to 16	Full term
Rhode Island -----	7 to 15	Full term
South Dakota -----	8 to 14	Full term
Utah -----	8 to 16	20 weeks
Vermont -----	8 to 15	Full term
Washington -----	8 to 15	Full term
West Virginia -----	8 to 14	20 weeks
Wisconsin -----	7 to 14	Full term
Wyoming -----	7 to 14	6 months

(a) In Delaware, Pennsylvania and South Dakota the time of attendance may be reduced by the school board.

TRUANCY

No compulsory education laws existed in 1905 in eleven states, viz.: Maryland, Virginia, South Carolina, Georgia, Florida, Mississippi, Alabama, Tennessee, Arkansas, Louisiana and Texas.

Relation to Child Labor.—When the first compulsory education law was enacted and when the truant officer started out to find the children who were missing from the school-room he discovered many of them in the factories, and was impressed with the necessity for keeping the children out of factories. An active propaganda for child labor (*see*) legislation has been in operation since 1904. A leading object of child labor legislation is to secure educational privileges for the children. When the factory inspector began to compel the removal of children from workshops he was immediately impressed with the necessity for getting them into school.

When the Illinois state legislature sought to determine the condition under which children should be allowed to labor they were logically driven to require a "school and age certificate," to determine on the one hand whether the child had reached the prescribed age at which he might be properly set to work, and on the other hand whether he had secured the rudiments of school instruction which would make the minimum requirements for ordinary life.

Causes.—The causes of truancy are to be sought: (1) in the child, sometimes because he is incorrigible and rebels against the work and discipline of school, more often because of mental or physical defects which result in discouragement and dislike of school; (2) in the parent, who through ignorance, cupidity, indifference, or poverty fails to realize the necessity for keeping the child in school; (3) in the employer, who desires the cheapness, the deftness and the helplessness of the child as a means of minimizing the cost of production; (4) in the community, which fails to safeguard the interests of the child by proper legislation, efficient truant officers, suitable clothing and proper parental schools.

Prevention.—The prevention of truancy is undertaken by various means. (1) By a medical and physiological examination which discovers mental and physical handicaps and

tries by remedial treatment to remove such disabilities; many children become truants because of deafness, visual defects, adenoid growths, or other physical infirmities which may readily be corrected. (2) By placing incorrigible truants in parental schools, or special public schools for special training. (3) By increasing the adaptation of the school to the needs and interest of the child; this is accomplished by introducing improved methods of instruction, manual training, vacation schools, wholesome recreation, etc. "The child will do right if it has right conditions. Right conditions demand that there shall be sympathy and thorough understanding of the child and its home surroundings; faith, firmness which expects and tolerates nothing more than the child's best, plenty of good work and good play which means a workshop and a playground. . . . The immediate accomplishment of the teacher is to create a school-life so wholesome and joyous in spirit that every child will necessarily respond to its influence. . . . Where such an environment exists it is impossible for truancy to exist." (4) Increasing the sense of responsibility on the parts of the parents is accomplished on one hand by admonitions, fines, etc., and, on the other by the sympathetic influence of friendly probation officers, or other social workers. (5) Extending to needy widows, or other impoverished parents such assistance as will enable them to furnish suitable care, food and clothing to enable the children to do their school work efficiently (*see* POVERTY AND POOR RELIEF).

Statistics.—The statistics of truancy are unreliable for lack of standardization. They are sometimes based on the enrollment of pupils, and sometimes upon the attendance. The apparent ratio of truancy is reduced by dropping from the rolls every child who is absent for three or more days.

This table shows that in only one of the 10 cities named does the attendance during three fourths of the year reach 75 per cent of the children. These facts indicate the necessity for vigorous efforts to secure a more constant attendance on the part of the children.

See CHILDREN, DEPENDENT, PUBLIC CARE OF; DETENTION HOMES; EDUCATION, COMPULSORY;

SCHOOL ATTENDANCE BY FOURTHS OF THE YEAR

	Percentage			
	Less than One-fourth	Less than One-half	Less than Three-fourths	More than Three-fourths
Porto Rico	2.0	9.2	21.6	78.4
Dayton, Ohio	4.7	12.1	23.6	76.4
Grand Rapids	6.7	14.8	27.5	72.5
Cleveland	8.6	18.3	28.0	72.0
Springfield, Ohio	6.5	13.7	28.2	71.8
Syracuse	6.2	16.0	29.7	70.3
St. Louis	10.1	20.0	32.9	67.1
Kansas City, Mo.	10.6	20.8	35.1	61.9
New Orleans	7.7	21.3	37.4	62.6
Columbus, Ohio	6.9	18.1	38.6	61.4
Average	7.0	16.4	30.3	69.7

TRUST COMPANIES—TRUSTEES AND REGENTS OF EDUCATIONAL INSTITUTIONS

SCHOOLS, INDUSTRIAL; SCHOOLS, PUBLIC, SYSTEM AND PROBLEMS.

References: J. D. Sullivan, *Summary of Compulsory Attendance and Child Labor Laws* (1907); U. S. Commissioner of Education, "Compulsory Attendance Laws of the U. S." in *Annual Report*, 1888-1889, I, 470-531, "Compulsory School Attendance" in *ibid*, 1894-1895, I, 1118-1121, "Summary of Laws Relating to Compulsory Education and Child Labor" in *ibid*, 1899-1900, I, 85-220, II, 2596-2602, "Compulsory Attendance and Child Labor Laws" in *ibid*, 1904, 2269-2276 (1905), 185-192, "Compulsory School Attendance" in *ibid*, 1906, 1263-1290; J. P. Haney, "Manual Training as a Preventive of Truancy" in *Education*, XXVII (June, 1907), 634-641; E. P. Seaver, "Care of Truants and Incurables" in *Educational Review*, VII (May, 1894), 423-438; G. R. Taylor, "Chicago Conference of Truancy, Causes and Prevention" in *Charities*, XVII (Dec. 22, 1906), 536-542; L. P. Ayres, "Irregular Attendance: a Cause of Retardation" in *Psychological Clinic*, III (Mar. 15, 1909), 1-8; B. Hall, "Truancy, a Few Causes and a Few Cures" in *National Education Assn., Proceedings*, 1909, 217-233; W. L. Bodine, "Prosecution of Parents of Truant Children" in *Juvenile Court Record* (Aug., 1904), 10, "Compulsory Education Department of the Chicago Public Schools" in *ibid* (Oct., 1906), 24-26.

HASTINGS H. HART.

TRUST COMPANIES. The trust company had its origin in the establishment of companies to execute individual and corporate trusts; in other words to act as a chartered trustee. The first corporation chartered to exercise fiduciary powers was recognized in New York in 1822. For many years trust companies confined themselves to the limited responsibilities referred to, but in the sixties and seventies they began to enlarge their functions, particularly in the field of banking. In some states indeed trust companies are little else than banking institutions. In the execution of individual trusts the trust company acts as executor and administrator of estates of decedents, cares for property of wards and minors, may act as receiver for an insolvent business, and often is made a depository for funds under court adjudication; in fact it performs any of the varied duties imposed upon an individual trustee.

In the execution of corporate trusts its operations extend over a wider scope. It holds corporate mortgages; acts as a representative of bondholders, taking charge of sinking funds, if such are required in the issue of bonds; serves as a registration agent of corporations in authenticating certificates of stocks or bonds; pays out dividend and interest payments on securities; acts as transfer agent of certificates of securities; often manages underwriting plans; and, in case of reorganization

of a corporation, appears as representative of the various classes of security holders. The exercise of these functions has introduced much stability into corporate enterprise. Not only do these institutions furnish an agency for providing capital, but they give confidence in the genuineness of certificates of securities which play so large a part in modern investment, and offer the holders protection and representation which a single individual often could not exercise effectively save at great expense.

In the evolution of the trust company into its present form an early step was the acceptance of individual time deposits, on which interest was paid. This practice was a public convenience, inasmuch as national banks did not seek for time and interest-bearing deposits. The range of investment, not being restricted as in the case of a national bank, made it possible for trust companies to enlarge their operations over fields in which banking institutions incorporated under federal charters could not compete. The business became most profitable, and as a consequence many national banks during the past ten years have been converted into trust companies.

See BANKING METHODS; BANKS AND BANKING, STATE; SAFE DEPOSIT COMPANIES.

References: F. B. Kirkbride and J. E. Sterrett, *Modern Trust Company* (1905); G. Cator, *Trust Companies in the U. S.* (1902); U. S. Mortgage and Trust Company of New York, "Trust Companies of the U. S." in *Annual of Statistics*.

DAVIS R. DEWEY.

TRUSTEES AND REGENTS OF STATE EDUCATIONAL INSTITUTIONS.

The governing body of state educational institutions is usually called a board of trustees or a board of regents. The former term is used for boards of 31 state colleges and universities and the latter for 21. Other names used are board of control in 2 states, state board of education for 9 institutions, board of supervisors (La.), board of curators (Mo.), regents of education (3 institutions in S. D.), board of visitors (Va.), and state board of agriculture for 2 institutions. The normal schools and special schools are commonly governed by boards of trustees.

The number of members composing these boards vary from 5 in 7 states, to 23 in California, 32 in Delaware and Pennsylvania, and 82 for the University of North Carolina. In many states certain state officers are members ex officio. The majority are appointed by the governor with the consent of the state senate; 5 states elect the boards of regents at general election, and 4 elect by the legislatures. Certain boards in Maryland, Delaware, Pennsylvania, New York, and Connecticut have complex membership.

In South Dakota, Montana, Iowa, Mississippi, Oklahoma, Florida, Kansas, and West

Virginia (one for finance and one for educational policy), one central board has general supervision and control of all state higher educational institutions, and in several cases special and charitable schools also.

As a rule the members of these boards receive no salary other than a small per diem payment and travelling expenses, the office being looked upon as one of distinction and opportunity for public service and for this reason attractive.

The boards are generally corporate bodies with full corporate powers, and with authority to manage all properties and financial business of their institutions, to make appointments and removals of instructional and administrative officers, and to prescribe rules and regulations regarding curricula, degrees, schools, departments, discipline, and special activities or trusts.

See EDUCATION AS A FUNCTION OF GOVERNMENT; EDUCATIONAL ADMINISTRATION; STATE UNIVERSITIES.

K. C. BABCOCK.

TRUSTEES, TOWNSHIP. The trustee is an officer acting in connection with other township officers as a local board. Three trustees may be named when they are required to perform the duties of a township board. Again there may be trustees for the school district, chosen at the same time as other township officers. Trustees or managers as a board have a different legal meaning from that of the single trustee as representing the leading officer in the township. The latter may perform the duties described under the title of supervisor as well as form part of the township board. He may be *ex officio* trustee, clerk, and treasurer of the school township. He may also provide for and act as inspector of elections and perform the duties of a township treasurer. See SELECTMEN; TOWN-COUNTY SYSTEM; TOWNS AND TOWNSHIPS. **References:** G. E. Howard, *Local Constitutional History* (1889), I, 169, 171; J. A. Fairlie, *Local Government* (1906), 175, 176; statute laws of the central western states.

B. F. S.

TRUSTS

Definition.—The trust may be defined as follows: a company organized for the purpose of owning the stocks and bonds of manufacturing, mining and trading companies, in exchange for which its own stocks and bonds are issued, and by whose acquisition the holding company acquires control of a sufficient number of concerns in its particular line of business to exercise a dominating influence upon prices by its power to regulate supply. This definition takes no account of holding companies organized to effect consolidations of so-called common carriers, such as railroads, telegraph and telephone lines, or of holding companies for the consolidation of public service monopolies, such as street railway and gas companies. By common usage, the term "trusts" has been limited to apply only to those holding companies whose primary object was to restrict and, in some cases, largely abolish, competition among the companies whose securities they acquire in the field of manufacturing, trading and mining. The most important of these companies, the amount of their capitalization, and the amounts distributed by them in interest and dividends during the last fiscal year, appear in the table on the following pages.

Economics.—The financial basis of the trust was the capitalization of the real or supposed profits to result from the elimination or restriction of competition, understanding by this term, the sale of commodities by two or more independent producers or dealers in the same market. The principal "economies" claimed for the combinations are as follows: (1) steadying of prices by restricting supply; (2) greater facility in dealing with labor or-

ganizations; (3) lower prices on materials purchased in large quantities; (4) centralization of offices and dismissal of unnecessary officials and employees; (5) saving in freight rates by shipping from the plant nearest the consumer; (6) financial advantages in providing new capital by the sale of the securities of a large company, and in lower rates of interest on bank loans; (7) improvements in machines and processes, and reduction in costs through supervision by a central organization.

Each of these "economies" realized by uniting a large number of plants manufacturing, for example, locomotives or harvesting machinery, would represent an increase in the total profits of all the plants combined into the trust. The possibility of the capitalization of these profits of combination made it attractive to promoters and bankers to buy up a large number of plants, turn them over to a central company, selling the securities of this company to obtain the money required to finance the undertaking, or purchasing the plants with securities instead of money, and leaving a larger or smaller amount of these securities in the hands of those instrumental in effecting the combination.

Suppose, for example, that a promoter desired to combine thirty iron foundries into a trust. The average value of the plants, when engaged in competing with each other, may be \$500,000. This figure is the capitalization of their average earnings—\$50,000 on a ten per cent basis. By combining all these plants under one ownership, competition is eliminated, and the average value of each plant, as a result of the economies of combination, may be increased from \$500,000 to \$750,000. The com-

TRUSTS

SECURITIES OUTSTANDING AND DIVIDENDS OF PRINCIPAL TRUSTS

Company	Securities Outstanding February 22, 1913	Amount	Rate Per Cent	Distribution in Dividends or Interest in Fiscal Year Ending in 1912
Allis-Chalmers Manufacturing Co.	Common Stock Preferred Stock Bonds	\$26,000,000 16,050,000 11,148,000	-- -- --	None None None
Amalgamated Copper Co. -----	Common Stock 2 Year Notes	153,887,900 12,500,000	2½ 5	3,847,198 625,000
American Agricultural Chemical Co.	Common Stock Preferred Stock Bonds	18,350,900 27,112,700 10,332,000	2 6 5	353,220 1,209,362 516,600
American Beet Sugar Co. -----	Common Stock Preferred Stock	15,000,000 5,000,000	5 6	750,000 300,000
American Brake Shoe & Foundry Co.	Common Stock Preferred Stock Bonds	4,600,000 5,000,000 755,000	7 7 5	252,000 280,000 38,271
American Can Co. -----	Common Stock Preferred Stock Bonds	41,233,300 41,233,300 14,000,000	5 5½ --	None 2,370,915 Not Issued
American Car & Foundry Co. -----	Common Stock Preferred Stock	30,000,000 30,000,000	2 7	600,000 2,100,000
American Chicle Co. -----	Common Stock Preferred Stock	6,000,000 3,000,000	18 6	1,180,000 180,000
American Cotton Oil Co. -----	Common Stock Preferred Stock Bonds	20,237,100 10,198,600 10,000,000	-- 6 4½ and 5	None 611,916 475,000
American Hide & Leather Co. ----	Common Stock Preferred Stock Bonds	----- 12,548,300 5,743,000	-- -- 6	None None 354,880
American Ice Securities Co. -----	Common Stock Bonds	19,057,000 7,720,000	-- 5 and 6	None 332,414
American Linseed Co. -----	Common Stock Preferred Stock	16,750,000 16,750,000	-- --	None None
American Locomotive Co. -----	Common Stock Preferred Stock Notes	25,000,000 25,000,000 8,800,000	-- 7 5	None 1,750,000 430,000
American Malt Corporation -----	Common Stock Preferred Stock Bonds	5,745,872 8,729,910 2,834,000	-- -- 6	None 349,196 171,969
American Smelting & Refining Co. --	Common Stock Preferred Stock	65,000,000 50,000,000	4 7	2,600,000 3,500,000
American Sugar Refining Co. -----	Common Stock Preferred Stock	45,000,000 45,000,000	7 7	6,299,958 6,299,958
American Thread Co. -----	Common Stock Preferred Stock Bonds	6,000,000 4,890,475 6,000,000	5.4 5 4	324,000 244,524 240,000
American Woolen Co. -----	Common Stock Preferred Stock Notes	20,000,000 40,000,000 4,000,000	-- 7 4½	None 2,800,000 180,000
American Writing Paper Co. -----	Common Stock Preferred Stock Notes	9,500,000 12,500,000 13,620,000	-- 2 5	None 249,610 681,000
Associated Merchants Co. -----	Common Stock 1st Preferred Stock 2d Preferred Stock	7,599,600 4,525,600 5,124,800	9 6 7	681,010 273,520 358,621
Bethlehem Steel Corporation -----	Common Stock Preferred Stock Bonds	14,862,000 14,908,000 30,700,000	-- -- 5 and 6	None None 1,748,761
Central Leather Co., -----	Common Stock Preferred Stock Bonds	39,701,030 33,299,050 39,444,150	-- 7 5 and 6	None 2,330,930 2,009,467
Consolidation Coal Co. -----	Common Stock Bonds	25,000,000 31,057,000	6 4½, 5 and 6	1,358,865 974,082
Corn Products Refining Co. -----	Common Stock Preferred Stock Bonds	49,777,300 29,826,900 12,378,000	-- 5 5	None 1,500,000 356,013

TRUSTS

SECURITIES OUTSTANDING AND DIVIDENDS OF PRINCIPAL TRUSTS— (Continued)

Company	Securities Outstanding February 22, 1913	Amount	Rate Per Cent	Distribution in Dividends or Interest in Fiscal Year Ending in 1912
Crucible Steel Co. -----	Common Stock Preferred Stock Bonds	24,578,400 25,000,000 9,500,000	-- 7 5	None 1,750,000 173,368
Distillers' Securities Corporation ---	Common Stock Bonds	\$30,809,180 15,568,270	2 5 and 6	687,775 793,046
International Mercantile Marine Co.	Common Stock Preferred Stock Bonds	49,931,735 51,730,971 77,586,155	-- -- 4½ and 5	None None 3,619,881 ¹
International Paper Co. -----	Common Stock Preferred Stock Bonds	17,442,800 22,406,700 13,900,000	-- 2 5 and 6	None 448,134 909,066
International Salt Co. -----	Common Stock Bonds	18,228,000 6,323,900	-- 5	None 351,745
International Steam Pump Co. -----	Common Stock Preferred Stock Bonds	17,762,500 11,350,000 9,784,000	-- 6 5	None 681,000 489,200
National Biscuit Co. -----	Common Stock Preferred Stock	29,236,000 24,804,500	7 7	2,046,520 1,736,315
National Enameling and Stamping Co.	Common Stock Preferred Stock Bonds	15,591,800 8,546,600 3,159,000	-- 7 5	None 598,262 178,167
National Lead Co. -----	Common Stock Preferred Stock	20,655,400 24,367,600	3 7	619,662 1,705,732
Pittsburgh Coal Co. -----	Common Stock Preferred Stock Bonds	31,928,900 27,071,800 22,605,120	-- 5 5	None 1,353,590 876,024
Republic Iron & Steel Co. -----	Common Stock Preferred Stock Bonds and Notes	27,191,000 25,000,000 17,576,000	-- 7 5	None 1,669,796 467,295
United States Rubber Co. -----	Common Stock First Pfd. Stock Second Pfd. Stock Bonds	36,000,000 56,619,400 1,641,200 27,000,000	3 8 6 4½ and 6	750,000 3,200,000 600,000 1,485,000
United States Steel Corporation ---	Common Stock Preferred Stock First Collateral Trust Bonds Second Collateral Trust Bonds	508,302,500 360,281,100 266,238,000 188,102,000	5 7 5 5	25,415,125 25,219,677 22,817,471
Virginia-Carolina Chemical Co. ----	Common Stock Preferred Stock Bonds	27,984,400 20,000,000 13,800,000	3 8 5	839,532 1,560,000 590,000

¹ Fiscal year ending in 1911.

pany which buys these plants can issue \$22,500,000 of stock, which may be expected to pay ten per cent dividends annually, and this stock can be sold for sufficient money to purchase the plants, and start the company as a going concern, leaving a considerable amount of stock, moreover, in the hands of the promoter and his associates, as their profit. Nearly every one of the trusts were organized in this manner.

Most of the trusts issued two kinds of stock, preferred stock usually calling for seven per cent dividends, supposed to represent the value of the constituent concerns before they entered the combination, and common stock, supposed to represent the stock value of the economies of combination. The trusts have, for the most part, regularly paid dividends on their preferred stocks. The common stocks have, however, proven to be much less valuable.

An examination of this table shows that most of the trusts have been organized in manufacturing industries, and as between manufacturing industries, mainly in the iron and steel and allied industries, industries engaged in producing the machinery and materials of further production which supply the wants of the individual consumer.

Voting Trusts.—Nearly all these trusts have been organized since 1898 under the laws of the state of New Jersey. The form of organization had, however, been developed before that time by a transformation of the voting trust into the holding company. The voting trust, as a means of controlling competition, dates back to 1882 when a trust agreement was entered into among the controlling interests of forty corporations and limited partnerships engaged in the various branches of the oil industry, and

largely controlled by the same persons, and nine trustees. This agreement provided for the organization of four Standard Oil companies whose stocks were: (1) to be held by the trustees who were further authorized to create similar corporations under the laws of other states; (2) all property and assets of corporations and limited partnerships in which the Standard Oil trustees held all the stock were to be transferred to the Standard Oil Company of the particular state where such property was situated; (3) that the stockholders of the forty corporations should assign their stock in the various corporations and limited partnerships to the trustees and their successors, and the trustees were to issue in exchange therefor trust certificates equal to the appraised value of such stocks and interests; (4) the trustees were to be elected by the trust certificate holders, and it was their duty to exercise general supervision over the affairs of the various companies, and to elect, as stockholders of these companies, faithful and competent men as directors and officers; (5) it was finally provided that the trust should continue during the lives of the survivors and the survivor of the trustees in this agreement, and for twenty-one years thereafter, but provision was made for dissolution after ten years, if desired.

This method of consolidation was imitated in the sugar refining industry, the lead refining industry, the industry of cottonseed oil and various others. By this form of organization, agreement between manufacturers as to prices and output, the primary object of the organization, was accomplished by placing the control of the stocks of the several corporations included in the trust in the hands of a board of trustees who directed the management of these companies and secured a uniform policy. The trust certificates were listed on the various stock exchanges, and were dealt in as ordinary shares of stock. They entitled their holders to receive proportionate parts of any dividend which might be declared by the companies whose stocks they represented, and paid to the trustees for redistribution to the holders of the trust certificates.

Attack on Voting Trusts.—In 1890, owing to the agitation against monopolies which had grown up in all parts of the United States, efforts were made to break up and dissolve these so-called "permanent pools." In 1890, the attorney general of New York brought suit against the North River Sugar Refining Company, one of the constituent companies of the sugar trust, under the common law which prohibits monopolies and restraint of trade. The case was decided against the company on the ground that the North River Sugar Refining Company was a combination:

The tendency of which is to prevent competition in its broad and general sense and to control, and thus, at will, enhance prices to the detriment of

the public. . . . But because the corporation, entering the trust, had exceeded the powers of its charter, the defendant had disabled itself from exercising its functions and employing its franchise as it was intended it should by the act under which it was incorporated, and had, by the action which was taken, placed itself in complete subordination to another and different organization to be used for an unlawful purpose, detrimental and injurious to the public. This was a subversion of the object for which the company was created, and it authorized the Attorney General to maintain and prosecute this action to vacate and annul its charter.

The Standard Oil Trust was also declared illegal on similar grounds by the Supreme Court of Ohio in 1892. It was at this time clearly perceived that the legal position of the trust was untenable, and that, if the recognized pecuniary advantages of restricting competition by consolidation were to be continued, some other form of organization must be devised.

Holding Company.—The method adopted was the holding company. The corporation law of New Jersey had been amended in 1889 to authorize the chartering of a corporation for the general purpose of owning the stocks or property of other corporations. In view of this amendment, it was seen that the substantive objects of the trusts could be attained if a new corporation was formed with power to purchase either for cash or with its own stock, the stocks of the several companies which were included in the trust, and which it was desirable to keep united under some form of permanent control. The changes which were made in the organization of the combination were as follows: (1) to substitute for the certificates of the old trust the shares of the new corporation; (2) to change the relation of trustee and trust into the relation of owner and property; and (3) to substitute for a board of trustees a board of directors. The result was a single corporation whose assets were securities of other corporations, each one in the full possession of its corporate faculties and exercising all of its lawful corporate activities; but the affairs of all placed under the permanent direction of the company owning a controlling interest in the stock of each. Competition among these companies would thus be prevented.

Difficulty of Contracting Holding Companies.—On the model furnished by the American Sugar Refining Company, a large number of combinations were formed during the period from 1898 to 1902, when financial conditions were extraordinarily favorable for the floating of securities. It was generally believed by those interested in forming these combinations that no matter what the laws of a particular state might be in reference to combinations in restraint of trade, that state could not prohibit a New Jersey corporation from owning, as an investor, the stocks of one or more of its domestic corporations, and exercising all the rights of ownership. It is true that the decision in the North River Sugar Refining case,

decided in 1890, which held that a corporation which places itself in subordination to another and different organization to be used for an unlawful purpose has disabled itself from exercising its functions, would be equally applicable to a company whose stock was owned by a foreign corporation as to a company whose stock had been placed in the control of trustees. If the individual states desired to do so, they could undoubtedly have broken up these large combinations in the manner indicated. The success of Missouri in excluding from her boundaries certain oil companies on grounds generally similar to those indicated, shows that this method could have been widely employed. It has not, however, been utilized save in a few cases, and, broadly speaking, the confidence of those who originated the device of the foreign holding company as a means of restricting competition has been justified, so far as concerns any interference from the individual state.

Sherman Anti-Trust Act.—As for the Federal law, passed in 1890, forbidding all contracts in restraint of trade and commerce, it was believed that this did not apply to combinations of manufacturing companies and that the legal position of the holding company had been finally established by the United States Supreme Court in the *E. C. Knight* case, decided January 21, 1895 (156 *U. S.* 1). This case arose out of an attempt to restrain the purchase by the American Sugar Refining Company of four refineries in Philadelphia on the ground that the purchase constituted a restraint of trade and commerce and was contrary to the terms of the Sherman Act. The court, by a majority vote, held that the Sherman Act applied only to interstate commerce and that "the fact that an article is manufactured for export to another state does not of itself make it an article of interstate commerce." Were the act to be more liberally construed, in the opinion of the court, the effect would be to give the Federal Government control of nearly all the business of the state, a right which it was never intended that it should possess.

Successful Prosecutions.—Here the matter rested until 1902, when an attack was made upon the holding company principle as applied to the Northern Securities Company, a New Jersey corporation, which had purchased, with its stocks, a controlling interest in the stocks of the Great Northern and Northern Pacific Railroad Companies (*Northern Securities Case*, *U. S.*, 193 *U. S.* 197). The sweeping victory won by the courts in this case emboldened the Department of Justice to proceed further against the combinations; and after the inauguration of President Roosevelt in 1905, and the institution of the Bureau of Corporations, greater activity was manifested in the investigation and prosecution of the trusts. Under the Roosevelt administration proceedings were

begun against the Standard Oil Company of New Jersey, E. I. DuPont de Nemours Powder Company of New Jersey (May 19, 1903), the American Sugar Refining Company of New Jersey (incorporated 1891), and the American Tobacco Company of New Jersey (1904). Of these suits, the Standard Oil Company and the American Tobacco Company cases (*see*) were, 1912, decided by the United States Supreme Court against the companies which were ordered "to submit to the Circuit Court some plan or method of dissolving the combinations and recreating out of the elements now composing it, a new condition which shall be honestly in harmony with, and not repugnant to, the law." The decision in the Standard Oil and American Tobacco cases took for granted that companies engaged in marketing their products in all parts of the United States were engaged in interstate commerce, paying no attention to the technicality upon which the decision of 1895 was founded.

It is impossible to state in advance of further decisions by the Supreme Court whether every one or a large number of the combinations enumerated above are prohibited by the Sherman Anti-Trust Act. We are, however, safe in concluding that in so far as any one of these combinations was organized to abolish or restrain competition, the success of which is evidenced by the dominating position it has secured in the trade, and its ability to maintain prices, and to impose its laws upon its competitors and upon the consumer, it will come within the prohibition of the act as recently construed by the Supreme Court. Whether the campaign against the trusts be continued to the point of exterminating a large number of them, it is certain that these decisions will have a marked effect in checking the growth in size of these great aggregations of capital, and in profoundly modifying their policy in the direction of greater liberality toward competitors and consumers.

See ADDYSTONE PIPE CASE; CAPITAL AND CAPITALIZATION; COURTS, FEDERAL JURISDICTION OVER; CORPORATION CHARTERS; DIRECTORS OF CORPORATIONS, STATUS OF; DUE PROCESS OF LAW; FOURTEENTH AMENDMENT; FRANCHISES, CORPORATION, FINANCIAL ASPECTS OF; FRANCHISES, CORPORATION, LEGAL ASPECTS OF; HOLDING CORPORATIONS; LAW, COMMON; LOAN ASSOCIATION VS. TOPEKA; MONOPOLIES; NORTHERN SECURITIES CASE; PATENTS; PUBLICITY OF CORPORATE ACCOUNTS; PUBLIC SERVICE CORPORATIONS; QUASI-PUBLIC CORPORATIONS; REASONABLENESS IN RESTRAINT OF TRADE; SHERMAN ANTI-TRUST ACT; VESTED RIGHTS, PROTECTION OF; WEALTH, NATIONAL.

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(1895); H. C. Adams, "Trusts" in *Am. Econ. Assoc. Quart.*, V (1904), Ser. 3, 9; R. T. Ely, *Monopolies & Trusts* (1900), 273; G. L. Bolen, *Plain Facts as to the Trusts and the Tariff* (1903), chs. i-ix; W. M. Collier, *Trusts* (1900); G. H. Montague, *Trusts of Today* (1904); F. Walker, "Causes of Trusts and Some Remedies," in *Am. Econ. Assoc. Quart.*, II (1910), Ser. 3, 290-320; A. M. Law, *Am. Trusts* (1887), 472; E. W. Bemis, "Trust Problem: Its Real Nature" in *Forum*, XXVIII (Dec., 1899), 218; Industrial Commission, *Report on Trusts and Combinations* (1900-1901); J. R. Dos Passos, *Commercial Trusts* (2d ed., 1905), *Growth and Rights of Aggregated Capital* (1901); W. W. Cook, *Treatise on Stocks and Stockholders, Bonds, Mortgages and General Corporation Law* (3d ed., 1894), 642-672; F. H. Giddings, *Democracy and Empire* (1900), ch. vii; J. B. Clark, *Control of Trusts* (1901); A. B. Nettleton, *Trusts or Competition* (1900); *Am. Year Book*, 1910, 36-39, *ibid*, 1911, 57-62, *ibid*, 1912, 36-39; bibliography in A. B. Hart *Manual* (1908).

EDWARD S. MEADE.

TUBERCULOSIS, CARE AND REGULATION OF. It would be quite impracticable for our government to care for the enormous number of persons afflicted with tuberculosis. The deaths alone from this disease number 160,000 each year in this country. Although it manifestly is not the function of the Federal Government to assume the direct care of those suffering with the disease it can be helpful in this problem by the establishment of model institutions to care for afflicted employees, and by the employment of model methods to prevent the spread of the infection among its employees. The government can furthermore be helpful by stimulating state and local authorities to action, by coördinating efforts and encouraging uniformity, by conducting scientific research and by education. If tuberculosis were added to the interstate quarantine regulations the Government could then exercise a sanitary control over interstate railroads and promote the sanitation of steamboat travel. Amendments to the interstate quarantine regulations, promulgated by the Secretary of the Treasury October 30 and December 9, 1912, prohibit the use of the common drinking cup and the roller towel upon common carriers, or in depots, waiting rooms, or other places used by passengers travelling from one state or territory to another. This marks a distinct advance of the Federal Government in improving the cleanliness and general sanitary conditions of interstate travel. Tuberculosis is a disease in which education of the public is of prime importance in its suppression. Along these lines the Government can and does help materially by publishing numerous pamphlets upon the subject, through exhibits, lectures, and other means. This

phase of the government activity in tuberculosis would be much more active and stimulating if Congress would appropriate more liberal sums for this purpose. The American Association for the Prevention of Tuberculosis is now attempting, in an admirable but limited way, to carry on a nation-wide campaign which should more properly be fostered and financed by the Federal Government. The American Association for the Prevention of Tuberculosis is serving as a clearing house for information in regard to proper measures for the control of the disease, with special reference to campaigns and the kind of work to be carried on by associations, corporations, municipalities, and state governments. All lines of public work, including tuberculosis, require some central office from which the many agencies interested can secure advice and instruction. The question of tuberculosis has been studied in many government laboratories, especially in the various laboratories of the Department of Agriculture and in the Hygienic Laboratory of the Public Health Service. These researches are a proper function of the Government in relation to this disease and deserve encouragement. The Government maintains three tuberculosis sanatoriums for some of its afflicted officers and employees. In this way the Government is demonstrating the practical value of segregation which is an essential feature in preventing the spread of the infection.

Sanatoria should be provided by the Government for the care of those who contract tuberculosis while in its employ. This would not only be just to those afflicted, but would serve to protect others, and would be an admirable example to be followed by states, municipalities, large corporations, etc. The greatest usefulness of the Federal Government in connection with this disease, and perhaps in most other lines of public health and uplift work, would be in serving as an efficient bureau of information and education; a bureau of information to which those engaged in this work could write for instructions as to what to do and how to do it; a bureau of education to disseminate information, to arouse interest, and give facts regarding the disease, to those who would not acquire the same of their own initiative.

Tuberculosis is our greatest health problem. Essentially it is a local problem, that is, one for the states and cities to combat directly. More than this, its ultimate control depends upon home sanitation and personal hygiene. Something can be done by the Government to diminish the amount of the disease and to decrease the scattering of the infection; more can be done by the individual to protect himself through proper food, exercise, rest, sunshine and temperance in all things, and through education to learn how to avoid the dangers that beset him. Tuberculosis is then a dis-

ease that calls for coöperation of all agencies, local and governmental, personal and public, social and economic; it is the function of the Federal Government to encourage uplift in all directions that will improve the conditions and protect the rights of the poorer people, thereby helping to control this disease of defective civilization.

See CONTAGIOUS DISEASES; HEALTH, PUBLIC REGULATION OF; HOSPITALS, PUBLIC.

M. J. ROSENAU.

TURKEY. See NEAR EAST, DIPLOMATIC RELATIONS WITH.

TURNER INSURRECTION. August 21, 1831, a body of negroes under the leadership of a slave preacher named Nat Turner, rose in Southampton county, Virginia, and in a few hours killed sixty white people. This most serious of all slave insurrections on the continent of North America, was put down by militia, aided by federal troops. Turner was put on his trial and legally executed. There is no evidence that Turner had any knowledge of the northern abolition movement; but the two things came close together, and combined to alarm the South and to cause the passing of severe laws against plots or meetings of colored persons. See INSURRECTIONS, SUPPRESSION OF. References: T. W. Higginson, *Travelers and Outlaws* (1889), 276-326; J. E. Cutler, *Lynch Law* (1905): "Federal Aid in Domestic Disturbances" in *Sen. Doc.*, 57 Cong., 2 Sess., No. 209 (1903). A. B. H.

TUTUILA. Tutuila, Manua and four islets, forming the southern part of the Samoan group, were ceded to the United States by the Anglo-German-American partition treaty of Dec. 2, 1899. Germany received the remaining 8 islands. The group is of volcanic formation, surrounded by coral reefs, with heavy rainfall, luxuriant tropical vegetation, and subject to typhoons and earthquakes. Tutuila has an area of 54 square miles, Manua and the islets, about 25 square miles; while the entire group has a population of 7251. Tutuila is situated 4,200 miles southwest from San Francisco, on the direct route to New Zealand, and possesses the only good harbor in the South Pacific, one large enough to hold the entire American fleet, yet perfectly protected by its winding entrance and high surrounding cliffs. Here the United States has a naval and coaling station, Pago-Pago. The natives are Polynesians, tall and well-proportioned. They were early converted to Christianity by the agents of the London Missionary Society and of the Roman Catholic Church. The administrative control is vested by the President in the Navy Department. The commandant of the naval station is also governor; he appoints officials, makes laws and has practically unlimited power. For the most part the natives are left

under the immediate authority of their former chiefs; their customs are generally undisturbed, except by their own consent; and they are forbidden to alienate their land to whites. There are village courts, five judicial district courts, and a high court. Government and denominational schools divide the task of education. The imports for the year ending June, 1912, were \$110,249, only \$12,621 coming from the United States; exports, \$146,275, mostly copra, \$21,885 going to the United States. See SAMOA, DIPLOMATIC RELATIONS WITH; COALING STATIONS; DEPENDENCIES OF THE UNITED STATES. References: D. S. Jordan and V. L. Kellogg, "Tutuila" in *Atlantic*, XCIV, Aug., 1904, 207-217; J. B. Moore, *Digest of Int. Law*, I (1906), 536-554; J. B. Henderson, *Am. Diplomatic Questions* (1901), 205-286.

GEORGE H. BLAKESLEE.

TWEED RING. A notorious political ring which held absolute control over the government of the city of New York from 1868 to 1871. Its chief members were William M. Tweed (*see*), the first boss of Tammany Hall, Peter B. Sweeny, the city chamberlain, Richard Connolly, the comptroller and A. Oakey Hall, the mayor of the city. Tweed was the leader and took to himself the largest share of the profits of the Ring's operations. Tribute was levied upon contracts for building operations and public improvements, the granting of franchises, the purchase of supplies, the payment of claims, and the salaries of officers and employees. Offices including judicial offices were sold. As state senator, Tweed controlled legislation affecting the city. The fall of the Ring began with the disclosures in the summer of 1871 of the waste of ten million dollars in the construction of the county court house. A committee of seventy was formed. Tweed and Hall were indicted and the committee candidates were successful in the fall elections. Some of the members of the Ring fled. Tweed escaped but was recaptured and died in prison in 1878. The stealings of the Ring have been estimated variously at from 45 to 200 millions. See NEW YORK CITY; TAMMANY; TWEED, W. M. References: J. Bryce, *Am. Commonwealth* (1st ed., 1888), II, 335-354; M. Ostrogorski, *Democracy and the Party System* (1910), 77-80; J. F. Rhodes, *Hist. of U. S.* (1906), VI, 392-411. E. H. G.

TWEED, WILLIAM MARCY. William M. Tweed (1823-1878) was born in New York City, April 3, 1823. He entered politics through membership in a fire-engine company. In 1852-53 he was a member of the board of aldermen; then from 1853 to 1855 a member of Congress; and thence advanced through the offices of supervisor, school commissioner, and deputy street commissioner to the position of state senator, which he held from 1867 to 1871. He was a member of Tammany Hall, and

grand sachem from 1869 to 1871; and in 1870 became the head of the new department of public works. Through the control of this and other offices the "Tweed Ring" carried on a systematic plundering of the city treasury. Exposures of the operation of the Ring, due to the *New York Times*, led to a civil suit against Tweed in 1871, and he was released on \$1,000,000 bail. Later in the year he was arrested on a criminal charge, and gave bail. In November, 1873, after a second trial, he was found guilty of fraud, and sentenced to twelve years' imprisonment and a fine of \$12,550. While confined at Blackwell's Island he was sued by the city for \$6,000,000, and judgment rendered against him. He was removed to Ludlow Street jail, escaped in December, 1875, and fled to Spain, was extradited, and died in jail April 12, 1878. See BOSS SYSTEM OF PARTY ORGANIZATION; TAMMANY; TWEED RING. References: J. Bryce, *Am. Commonwealth* (1st ed., 1888), I, ch. lxxxviii; J. K. McGuire, *Democratic Party of the State of N. Y.* (1905), III; J. Bigelow, *Life of Samuel J. Tilden* (1895); W. L. Stone, Jr., *Hist. of N. Y. City* (1872); G. Myers, *Tammany Hall* (1901).

W. MacD.

TWELFTH AMENDMENT. The Constitution of the United States as adopted in 1788 provided for the choice of a President and Vice-President by electors elected in the several states (Art. II, Sec. i, ¶¶ 1-4). Each state was to have as many electors as it had Representatives and Senators in Congress. The electors thus chosen were to meet in their respective states and vote by ballot for two persons, one of whom at least should not be a member of the same state with themselves. There was no provision for distinction between ballots for President and those for Vice-President; the person receiving the highest number of votes was to be President in case he received a majority of all the electors appointed. If more than one had a majority and an equal number of votes, the House of Representatives was to choose one of them for President, and if no one had a majority the House was to choose one from the five highest. The vote in the House was by states, and a quorum was to consist of a member or members from two-thirds of the states. In every case, after the choice of President, the person receiving the greatest number of votes of the electors was to be Vice-President; but if two or more received equal votes, then the Senate was to choose from them the Vice-President.

The framers of the Constitution chose this method of electing the President because they believed that an indirect system was preferable to a direct system and they did not believe that the main body of the people was capable of selecting a President. They appear to have supposed that the electors would exercise their free and independent judgments and that there

would be so much difference of opinion among the electors that the election would frequently, if not customarily, devolve upon the House. This is interesting evidence of how the makers of the Constitution failed to anticipate either any process of nomination or the rise of political parties which would assume the responsibility of presenting candidates and of taking the necessary steps for their election.

Events soon proved that influence and manipulation were possible, and, with the formation of political parties, the constitutional plan proved unsuitable. Under the influence of parties the independent judgment of the electors had almost entirely disappeared by 1796; the electors were expected to vote for the party candidates. Had parties been as thoroughly organized and as fully controlled by a central system as was later the case, electors in 1796 might possibly have been so directed that Adams would have received only one more than Pinckney, and thus Pinckney would have become Vice-President. As it was, however, Jefferson was chosen Vice-President, though he was a candidate for President, and thus the President and Vice-President belonged to different parties. Plainly, unless electors were thoroughly dominated by a central party government, the system in vogue was ill adapted to the party régime.

In 1800 the results disclosed another difficulty. Although Burr was the vice-presidential candidate, Jefferson and Burr received the same number of votes. Here again a thoroughly organized party machine could have controlled the electors and given one less vote to Burr than to Jefferson; but without such central control an election under the party system was likely to result in a tie or in such a division of the offices as had been the result of the previous election. If electors should vote the straight party ticket, a tie would always occur. The election of 1800 was thrown into the House. Here the intensity of partisan feeling and the significance of the existence of parties was made manifest again. The Federalists preferring Burr to Jefferson voted for the man whom his party had selected for the vice-presidency. Thirty-five ballots resulted in no election; but on the thirty-sixth some Federalists refrained from voting to allow Jefferson's election.

Early in 1802 resolutions to amend the Constitution were introduced into Congress. They passed the House but not the Senate. In 1803, however, resolutions passed both houses and the proposed amendment was submitted to the states. September 25, 1804, the Secretary of State proclaimed that the amendment was adopted. The legislatures of Massachusetts, Connecticut and Delaware rejected the amendment; the governor of New Hampshire vetoed the legislative resolution of approval (see CONSTITUTION OF THE UNITED STATES, AMENDMENTS TO).

The Twelfth Amendment provides that electors shall cast ballots for the President and distinct ballots for Vice-President. A majority of votes is necessary to an election; if no one receives a majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately by ballot the President. In the House each state has one vote. If no one receives a majority of the electoral votes for Vice-President the Senate selects one from the two highest numbers on the list. The new method of election made the party system more easily manageable; it made, in conjunction with party control, for the influence of the populous state, the "large state" (see CONSTITUTION OF THE UNITED STATES, COMPROMISES OF): it made it quite certain that a person would be nominated for the vice-presidency because he might help to carry his own state. Still, all this was rather the result of the rise of party government than of the amendment. The text of the amendment is as follows:

The Electors shall meet in their respective states, and vote by ballot for President and Vice-President, one of whom, at least, shall not be an inhabitant of the same state with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice-President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice-President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of the government of the United States, directed to the President of the Senate:—The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates and the votes shall then be counted:—The person having the greatest number of votes for President, shall be the President. If such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest numbers not exceeding three on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But in choosing the President, the votes shall be taken by states, the Representation from each state having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the states, and a majority of all the states shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice-President shall act as President, as in the case of the death or other constitutional disability of the President. The person having the greatest number of votes as Vice-President, shall be the Vice-President. If such number be a majority of the whole number of Electors appointed; and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice-President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice-President of the United States.

See NOMINATION OF THE PRESIDENT; PRESIDENTIAL ELECTIONS.

References: H. V. Ames, "The Proposed Amendments to the Constitution during the First Century of its History" in *Am. Hist. Assoc., Annual Report* (1896), II, 75-80; L. House, *A Study of the Twelfth Amendment* (1901); J. B. McMaster, *Hist. of the People*

of the U. S., II (1885), 509-526, III (1892), 183-187. ANDREW C. McLAUGHLIN.

TWENTY-SECOND JOINT RULE. A rule adopted by both Houses of Congress February 6, 1865, which provided that no electoral vote to which objection had been made should be counted "except by the concurrent vote of the two Houses." The "rule" continued to be applied in the counting of the electoral votes in 1869 and 1873 but was rescinded by the Senate, January 20, 1876. See ELECTORAL COUNT FOR PRESIDENT. O. C. H.

TWILIGHT ZONE. A phrase used apparently for the first time by Theodore Roosevelt, applied to the field of legislation over which neither the Federal Government nor the states have a determined jurisdiction; such as liability for accidents in transportation; use of electric power derived from public water sites. See CONCURRENT POWERS; DIVISION OF POWERS; STATES IN THE UNION; STATE SOVEREIGNTY. A. B. H.

TWO-THIRDS RULE. A rule adopted by the Democratic national convention in 1832, and enforced by all subsequent Democratic conventions, which provided "that two-thirds of the whole number of votes in the convention shall be necessary to constitute a choice." See CONVENTIONS, POLITICAL; DEMOCRATIC PARTY; NOMINATION OF THE PRESIDENT. O. C. H.

TYLER, JOHN. John Tyler was born in Charles City county, Virginia, March 29, 1790, and died in Richmond, Virginia, January 18, 1862. He graduated at William and Mary College in 1807, studied law and was admitted to the bar in 1809. A member of the legislature in 1812, he urged war with England. He was a representative in Congress from 1816 to 1825 when he became governor of Virginia. Two years later he was elected United States Senator. He took part as a conservative in the Virginia constitutional convention of 1829-30, and alternately favored and opposed the measures of Jackson's administration. In 1839 he was nominated for Vice-President and in 1841, on the death of President Harrison, became President. Within a few months he broke with his party, the Whigs, persisting in a notable policy of his own looking toward the annexation of Texas and the seizure of Oregon and California. In 1845 he signed the joint resolution which made Texas a state. He retired to his plantation in Virginia in 1845 but came again into public life as president of the Peace Congress in February, 1861. On the adjournment of this body he urged the prompt secession of Virginia. He was a member of the Confederate house of representatives at the time of his death. See TEXAS; VIRGINIA; WHIG PARTY. Reference: L. G. Tyler, *Times of the Tylers*, (1884-1885). W. E. D.

U

ULTRA VIRES. A term used to indicate that an act of a corporation public or private is beyond the powers conferred upon it by its charter or the statute under which it was organized. Reference: A. W. Machen, Jr., *Modern Law of Corporations* (1908), § 1012.

H. M. B.

UNCLE SAM. A sobriquet of the United States Government which probably first appeared in the Troy, New York, *Post* of September 7, 1813, with the explanation that "The letters U. S. on the government waggons, etc., are supposed to have given rise to it." At first the nickname appeared only in the anti-war newspapers and in a derisive sense. The weight of evidence seems to be against the authenticity of the popular story of the origin of the sobriquet which appeared in John Frost's *Book of the Navy* in 1842, and was adopted by Bartlett in his *Dictionary of Americanisms* in 1848, ascribing the origin to "Uncle Sam" Wilson, a government inspector in the War of 1812.

O. C. H.

UNDERGROUND RAILROAD. A name given in general to the system, used in the days before the Civil War, in aiding fugitive slaves from the southern states to find places of safety in the North or to escape to Canada. It was made up of a chain of houses or other places of concealment in which the fugitive was hidden, and from which he was carried on to the next "station" by friend or sympathizer. There were various routes through the northern states, the most numerous, running through Ohio and Indiana. See FUGITIVE SLAVES; SLAVERY CONTROVERSY. References: W. H. Siebert, *Underground Railroad* (1898), with map; M. G. McDougall, *Fugitive Slaves* (1891); L. Coffin, *Reminiscences* (1880).

A. C. McL.

UNDERVALUATIONS. Inasmuch as a large number of the import duties are levied ad valorem, it is always to the interest of importers to cheapen the foreign cost as much as possible; and to minimize the cost in any case. By a system of shipping from manufacturers only to their agents in America, instead of to the ordinary buyer, it is often possible to get a valuation which would not be furnished to the trade. Hence, in the McKinley administrative tariff of 1890 and in the Dingley Tariff of 1897, were provisions for ascertaining cost at the prevailing market

rate in the foreign country. One form of undervaluation is to enter the commodity in a classification which bears a lower duty than the schedule in which the assessor would naturally place it. The usual way of undervaluing is simply to falsify the cost, particularly in commodities the actual value of which is hard to estimate. William Loeb, as Collector of the Port of New York in 1909, detected many schemes of undervaluation, particularly on sugar and on works of art and on passengers' baggage. The value of an importation is a question of fact, appealable to a board of general appraisers (*see*); and their decision is final. See APPRAISAL OF IMPORTED GOODS FOR DUTIES; DUTIES, AD VALOREM; FINES AS SOURCES OF REVENUE; FRAUDS ON THE TREASURY; SMUGGLING; SUGAR FRAUDS. References: J. O. Goss, *Tariff Administration* (1890); U. S. Sec. of the Treasury, *Annual Reports*. A. B. H.

UNDERWOOD, OSCAR W. Oscar W. Underwood (1862—) was born at Louisville, Kentucky, May 6, 1862. He was admitted to the bar of Alabama in 1884 and began the practice of law at Birmingham. After several years of activity in state politics he entered Congress in 1895 as representative of the Ninth Alabama District and served continuously to 1914. He was assigned for several terms to the committee on ways and means and in 1911 became its chairman and Democratic floor leader in the House. Under his guidance were prepared the tariff bills introduced in the Sixty-second Congress, and the ability and tact displayed in his direction of legislation in the House secured him considerable support for the Democratic nomination for President in 1912. In 1913 he drafted and guided through the House the Underwood Tariff Act (*see*). In April, 1914, he received in primary elections the Democratic nomination from Alabama for the term beginning in 1915. See TARIFF POLICY OF THE UNITED STATES; TARIFF RATES; UNDERWOOD TARIFF ACT. Reference: *Am. Year Book*, 1911, and year by year.

F. G. W.

UNDERWOOD TARIFF ACT. Enactment. The enactment of the Underwood-Simmons Tariff Act of 1913 marked the close of a campaign for tariff reduction which had been waged through several sessions of Congress. During the year 1912-1913, in the administration of President Taft, Oscar W. Underwood (*see*),

as chairman of the committee on ways and means, supported by the Democratic majority in the House of Representatives, pushed through the House six important bills designed to effect specific or general reductions in tariff rates. Of these, one failed through disagreement with the Senate, and two were vetoed by President Taft.

In the election of 1912 a Democratic administration came into power. President Wilson called a special session in April, 1913, and Mr. Underwood at once introduced "A bill to reduce tariff duties, and to provide revenue for the government, and for other purposes." It was reported by the committee on ways and means without amendment April 22, and referred to committee of the whole where it was debated until May 7, when it was reported back to the House and finally passed upon the following day by a vote of 281 to 139. The bill remained in the Senate until September 10, when it was passed with several important amendments including alterations in the exemptions under the income tax (*see* TAX, INCOME). The delegation from Louisiana solidly opposed the sugar schedule; and individual members from various parts of the country declined to be bound by the Democratic caucus. Most of the Republicans opposed the act *in toto*. President Wilson took the leadership in putting the measures through Congress. A conference committee was appointed and its report agreed upon September 30. October 3 the President attached his signature. The act not only made important changes in the tariff, but included the first income tax legislation under the Sixteenth Amendment (*see*) to the Constitution.

Changes in Rates.—The act was the only general revision downward of the protective duties, except for the Wilson-Gorman Act of 1894 (*see*), since the Civil War. However, the protection afforded to most American industries remained large; but when compared with the rates of the Dingley Tariff of 1897 (*see*), and the Payne-Aldrich Tariff of 1909 (*see*), large increments of protection disappear. In numerous paragraphs the reductions were nominal, since the quantities of goods on which the duties were lowered continued to be small or non-existent. This is the case with many items of the cotton schedule, with most grades of silks, iron, the higher grades of china and porcelains, and in some classes of woollens. A far-reaching administrative feature of this tariff is the almost total elimination of specific duties and of compound specific and ad valorem duties, and the substitution of simple ad valorem duties, a precaution against undervaluation (*see* VALUATION OF IMPORTED GOODS).

In some schedules little or no change was made in the rates. Schedule F (tobacco and its manufactures), and Schedule H in so far as it applies to liquors, remained at practically the old levels. In connection with chemicals

51 of the 86 increases made by the act are to be found. The schedule dealing with silks included an alteration of the method of assessment, thus eliminating the intricate classification adopted in 1897 and continued in 1909, which covered much hidden protection. In rates there was little change in this schedule; it was argued that silks were luxuries and should be subject to higher duties than necessities.

By far the most important and significant change was in connection with wool and woollens. The duty on raw wool was abolished, and with it went the entire compensating system applying to woollens, which, in many instances, had afforded to the manufacturer a greater amount of protection than was received from the duty of 50 per cent or 55 per cent on imported manufactured goods. The more important manufactures of wool were reduced to a 35 per cent level, the rate which was levied by the original compensating act of 1867. Under the Payne-Aldrich rates the total protection, direct and indirect, on many classes of goods, was 100 per cent, and in some cases under the compensating system the compensating duty applied not only to cloths made entirely of wool but to cloths made "in part of wool." The consequence was that cloths consisting almost entirely of cotton or shoddy received excessive protection. An important change in the phraseology of the clause substituting "wholly or in chief value" for "wholly or in part" will make compound cloths dutiable under schedules other than K. On one point schedule K seems inconsistent with the rest of the act. Under the act of 1909 wool had protection and also mohair, a product of Texas and the Southwest. Instead of removing both duties, mohair was allowed a rate of 15 per cent and the manufactures based upon it received compensating duties ranging up to 45 per cent on the most highly finished product.

Next in significance was the treatment of the cotton schedule which, when enacted in 1909, drew the censure of President Taft. The act wiped out the indirect protection through complex classifications introduced in 1909. By substituting ad valorem for specific duties all incidental protection was removed. In addition, substantial reductions were made in the actual rates imposed. Thus, as compared with the legislation of 1909, the rates on cotton cloth ranged from 7½ per cent to 68 per cent; on yarn from 5 per cent to 27 per cent as against 15 per cent to 54 per cent; on knit underwear and knit goods in general 30 per cent as against 50 per cent to 60 per cent.

These reductions are serious, but the United States produces the lower grades of cottons at least as cheaply as any other country; and, excepting in the case of specialties, exports rather than imports them. Regarding the higher grades the situation is different. Even under the high rates of the tariff of 1909 the

imports were heavy. It is reasonable to believe that with the decreased rates the imports will tend to increase.

On flax and hemp the indefensible duties imposed by earlier legislation were entirely removed, and a large reduction was made in linens, which were made dutiable at 30 per cent. On jute was levied a duty of 15 per cent, a reduction of about one-half; and jute products were made subject to a rate of 40 per cent, a reduction of about one-third.

The duties on practically all of the agricultural products were either reduced or abolished. Meats of all kinds, cattle, sheep, eggs, milk and cream, and fish were placed on the free list. The act provided also for the free entry of wheat, flour, and potatoes, if the country of origin permitted the free admission of similar products from the United States. It is not probable that these changes will be of importance in the immediate future excepting for the trade on the northern border.

One of the most important changes in the act related to sugar. On this commodity the duty was reduced from $1\frac{2}{3}$ cents a pound to one cent a pound until May 1, 1916. After that date it is to be admitted free. By abolishing this duty the treasury receipts were bound to fall off over \$50,000,000 annually. It is probable, too, that the economic effects of this change will be more far reaching than those of any other paragraph of the act. Many of the producers in Louisiana and in the beet sugar states will not find it possible to continue in business without tariff protection, even though the act allows the free importation of machinery for sugar making.

Respecting earthenware and glassware the reductions were general, but the duties remained comparatively high. Thus, the reductions on window and plate glass were about two-fifths, but the previous rates had been prohibitive. On fine china and porcelain the rates were reduced by only a small fraction; since there is practically no domestic manufacture of these articles, the duties are to be regarded as for revenue and not for protection. On earthenware and crockery the reductions were about one-third, but in these cases the duties were decidedly protective and the rates left in force were sufficiently high to be, in some cases, still prohibitive.

The changes in the duties on iron and steel were numerous but not particularly important, since protection ceased to be a matter of vital importance to these industries as far back as 1890. Iron ore, pig iron, scrap iron, slabs, blooms and Bessemer ingots and steel rails were the most important items in this schedule to be admitted free of duty. Of the manufactured products, agricultural implements and machinery were entered on the free list.

Most of the articles in Schedule D (wood and wooden ware) were heavily reduced, and timber, lumber, shingles, boards and planks

were made free. In Schedule M, wood pulp and rag pulp were made free, and most of the other items reduced. In Schedule N (sundries), coal and coke, leather, boots, and shoes and most varieties of gloves were made free and large reductions were made in the other items.

Other Provisions.—The Payne-Aldrich Act included a "tariff threat" by enacting a 25 per cent maximum schedule against countries which did not give us favorable tariff treatment. But no foreign nation was found to discriminate in the sense of the tariff act. That clause was dropped out of the Underwood Act, but the clauses relating to the dumping of goods were continued practically unchanged. The act included a 5 per cent rebate on goods imported in American bottoms; but it was thought by the Treasury Department to conflict with various treaties, and its enforcement was suspended. To meet possible deficiencies in revenue because of the reductions and the enlarged free list, an income tax was included.

See DEMOCRATIC PARTY; FREE TRADE AND PROTECTION; SIXTEENTH AMENDMENT; UNDERWOOD, OSCAR W.; TAX, INCOME; articles under TARIFF, and tariffs by name.

References: N. I. Stone, "New Tariff: a Retrospect and a Forecast" in *Review of Reviews* (Oct., 1913); "Underwood-Simmons Tariff" in *ibid* (Nov., 1913); N. Longworth, "Democratic Tariff Bill," in *Outlook* (May 31, 1913); "Progress of the Tariff Bill" in *Jour. of Pol. Econ.* (June, 1913); leading editorial on the President's tariff message in *Review of Reviews* (May, 1913), 515; H. Parker Willis, "The Tariff of 1913" in *Jour. of Pol. Econ.* (Jan., Feb., March, 1914); *Am. Year Book, 1913*, 28-38, 349-354, 531-540; text of the Act of October 3, 1913 in *Statutes at Large*; discussions, F. W. Taussig, "The Tariff Act of 1913," in *Quart. Jour. of Econ.*, XXVIII, No. 1.

A. N. HOLCOMBE.

UNEARNED INCREMENT. A term popularly employed to designate an increase in the value of property without corresponding sacrifice or service on the part of its owner. Examples of unearned increment are the increase in value, through general economic changes, of government bonds, corporation securities, rare paintings, books, antiques. Strictly speaking, unearned increment appears also in connection with stocks of goods rendered more valuable by some unanticipated event, a war, drought, etc. The most important form of unearned increment, however, is the rise in the value of land resulting from the progress of population and industry. The entire value of land, apart from improvements upon it, may be regarded as a sum of increments of this character, accrued since the first appropriation of the land.

Especially noteworthy in recent decades have been the unearned increments connected with urban lands. In old countries, agricultural

lands seldom increase rapidly in value, and in many cases, as in Great Britain, tend rather to fall.

Unearned increment has long been recognized by social reformers as an appropriate source of public revenue. John Stuart Mill proposed a valuation of all lands, with the purpose of appropriating to the state any subsequent increase in value. In 1870 a Land Tenure Reform Association was founded in England for the purpose of bringing about this reform. A similar association was organized in Germany in the next decade. No practical results were attained till the opening of the twentieth century when a large number of German cities adopted the plan of levying special taxes upon the unearned increment from land. In Breslau, which may be treated as typical, in respect to this form of taxation, a graduated tax, collected upon the transfer of real estate, is levied upon an increase of value, in excess of 10 per cent, accrued since the last transfer, or since 1895. This tax ranges from 6 per cent on an increment of from 10 to 20 per cent, to 25 per cent on an increment of 100 per cent or more. The full tax is collected only when the period in which the increment has accrued is five years or less in the case of unimproved real estate. Increments accruing in ten years (improved) or twenty years (unimproved) pay only one-third of the tax; increments accruing in still longer periods pay two-ninths of the tax.

In the United Kingdom a similar principle was introduced into national taxation by the increment value duty of 1909. Upon the transfer or sale of building sites or upon the grant of a lease of over fourteen years, there is to be levied a tax of £1 in every full £5 of increment value in excess of 10 per cent, accruing between transfers or since April 30, 1909. Bodies corporate holding land permanently are subject to the tax every fifteen years.

See RENT; TAX, LAND AND REAL ESTATE; TAX, SINGLE.

References: W. H. Dawson, *The Unearned Increment* (1890); J. B. Napier, *The New Land Taxes* (1910); C. H. Chomley and R. L. Outhwaite, *Land Values Taxation* (1909).

ALVIN S. JOHNSON.

UNEMPLOYMENT. Unemployment exists in most large industrial centres at all times of the year, among wage-earners, able and willing to work. Unemployment may also be due to inefficiency, physical disability or unwillingness to work, thus raising the problem of the unemployable as distinct from the unemployed.

Situation.—Fluctuations of employment are recorded in publications of the United States Labor Bureau and those of some of the states, notably Massachusetts and New York, supplemented by reports of public employment bureaus (see EMPLOYMENT AGENCIES). A conservative estimate made by the New York

Commission on Employers' Liability and Unemployment (1911), is that in ordinary years of business prosperity, taking all industries into consideration, out of every one hundred persons, sixty will be steadily employed; forty will be working irregularly. Of those who have irregular employment, three will always be out of work. The New York Department of Labor after eliminating idleness due to disability and labor disputes, estimated the mean percentage of unemployment for the last half of 1910 was 11.1 as compared with 10.8 for 1909. Similar figures for the end of December are 15.5 for 1910 as against 16.6 in 1909. In 1909 and 1910 much lower percentages of unemployment are shown than in 1907 and 1908; and higher percentages than in 1904, 1905 and 1906, before the annual depression. The high ratio of unemployment, coupled with the prevailing rate of wages, is a serious menace to the standard of living of wage-earners and, therefore, to the welfare of the state.

Remedies.—The following include the chief remedies that have been proposed: (1) publication by trade or governmental authorities of the conditions of the labor market; (2) establishment of employment bureaus and registry offices; (3) establishment of boards of conciliation and arbitration to eliminate the unemployment due to strikes; (4) adoption of a shorter work day; (5) restriction of immigration; (6) establishment of labor or farm colonies; (7) insurance against unemployment; (8) agencies to make work, e. g., public works.

Public Works.—The classic historical example of making work for the unemployed is the wholly unsuccessful public workshops in France established by the provisional government after the revolution of 1848. Local authorities in England tried in 1892-93 to open relief works during the winter months for the assistance of the unemployed; but the work proved attractive to the lower class of unskilled laborers, instead of to regular workers temporarily out of work. "The pace and standards of the inefficient spread by contagion to the few efficient men employed." The Massachusetts board on unemployment in 1895 said: "During a severe depression of industry and trade, a municipality may be justified in entering upon special works, with, however, the distinct recognition that the cost of such work will be increased." The consensus of opinion in America seems to be that in brief emergencies, when well managed, direct relief is better than relief works.

See EMPLOYMENT AGENCIES; LABOR, RELATION OF THE STATE TO; POVERTY AND POOR RELIEF.

References: "Unemployment and Lack of Farm Labor" in New York Commission on Employer's Liability, *Third Report* (April 26, 1911); E. T. Devine, *Desirability of Establishing an Employment Bureau in the City of*

UNFAIR LIST—UNIFORM STATE LEGISLATION

New York (1909); W. H. Beveridge, *Unemployment* (1909); J. H. Muirhead, *By What Authority?* (1909); Massachusetts Board to Investigate the Subject of the Unemployed, *Report* (1895); British Royal Commission on Labor, *Fifth and Final Report* (1894); R. S. Seebolm and B. Lasker, *Unemployment, a Social Study* (1911); *Am. Year Book, 1911*, 361, *ibid*, 1912, 403, 407.

S. McC. LINDSAY.

UNFAIR LIST. "Unfair lists" are published lists containing the names of firms against

whom a labor union maintains a boycott. Every effort is made by the unions to give these lists the widest possible publicity. Since the decision of the Supreme Court, in *Loewe vs. Lawlor* (28 U. S. 301, 1908), holding that unions are liable for treble damages for losses sustained through boycotts, the publication of "unfair lists" has practically ceased. See **BOYCOTTS; EMPLOYERS' ASSOCIATIONS; LABOR ORGANIZATIONS.** Reference: M. H. Schaffner, "Recent Boycott Decisions" in *Am. Acad. of Pol. and Soc. Sci., Annals*, XXVI (1910), 23-33.
J. R. C.

UNIFORM STATE LEGISLATION

Divergence of Legislation.—Our dual system of government, the federal, with control in national affairs, and the state, with control by each state of its internal affairs, has its recognized advantages. It has also certain disadvantages. The states are bound by social and commercial relations and are separated only by invisible boundaries, and their law is based on the common law of England, except in Louisiana and some of the western states affected by its influence. But even before the Revolution legislation had modified the law of England. Differences in the new state constitutions introduced further divergencies. Since then, an unceasing and ever increasing flow of legislation has tended to accent differences in state legislation, often through the development of different fields of action. Thus, the law of ownership of the foreshore and tidal waters have no application in Iowa, nor have laws relating to mining rights, any interest in New Hampshire.

Harmonizing Legislation.—There is, however, a broad legislative field of common interest in all the states, over which the Federal Government has no control, in which uniformity of legislation can be reached through comity between the states in adopting uniform laws. This is true, even though the enlargement of the control of the Federal Government over interstate commerce, over admiralty, and particularly the establishment of the power of the Supreme Court of the United States to declare unconstitutional and void any state law or constitution that conflicts with the Constitution of the United States, have tended towards uniformity in the realm of interstate and federal relation of the states and the United States. The tendency of bench and bar to follow precedent has also worked towards harmony in the construction of legislation. Later constitutions have drawn upon earlier ones, to a certain extent, and the modern legislative reference bureaus (*see*) keep legislators informed upon legislation on similar matters in other states. Particular forms of legislation,

such as restrictions on the sale of liquors, provision for labor bureaus, employers' liability acts, and so forth, are thus spread from state to state.

Centrifugal Tendencies.—All these irregular and indefinite tendencies towards uniformity are subject to the legislative power of each state to amendment or repeal; so that statutes, even if once alike, soon tend to differ again. The result is a chaos of legislation in which an act that is a felony in one state may be a misdemeanor in another, and not punishable at all in a third state. A man may even have a different legal wife in several different states, and dying, he may leave as many legal widows, one in each state.

American Bar Association.—To simplify this tangle, a movement has been going on for unification of particular fields of law by the enactment in different states of the same statute. The primary step was the formation of the American Bar Association, August 21, 1878. The first object stated in the call was "to assimilate the laws of the different states;" and the first article of the constitution defined an object of the association to be "to advance the science of jurisprudence, to promote the administration of justice and uniformity of legislation throughout the Union."

Committees of the Bar Association.—As early as 1882 a committee of the association submitted forms of certain statutes to bring about uniformity in state legislation. A practical step in advance was taken in 1886 at the instance of Frederick G. Bromberg, President of the Bar Association of Alabama, by a resolution urging uniform legislation concerning negotiable instruments, calling attention to the English Bills of Exchange Act and recommending its adoption by the legislatures of the several states. At the meeting of the American Bar Association in 1887, a committee reported in favor of a national bankruptcy act, and of national legislation to regulate commercial transactions between citizens of different states; also recommending that the

Congress should enact a statute relating to bills of exchange and other commercial paper, so far as they are involved in interstate commerce.

In 1889 the president of the American Bar Association appointed a committee of one member from each state having members in the association, to meet in convention, to compare and consider the laws of the different states, and to prepare and report to the association recommendations and measures to bring about the desired uniformity. This committee has been appointed every year since then, its membership gradually increasing to fifty, and it is now (1913) one of the standing committees.

Commission on Uniformity of Legislation.—This committee reported in 1890 that the legislature of New York had passed an act authorizing the governor to appoint three commissioners for the promotion of uniformity of legislation, to examine certain stated subjects, "to ascertain the best means to effect an assimilation and uniformity in the laws of the states, and especially to consider whether it would be wise and practicable for the state of New York to invite the other states of the Union to send representatives to a convention to draft uniform laws to be submitted for the approval and adoption of the several states."

The committee recommended the passage by each state and by the Congress of the United States of a similar act, and that the report and resolutions be printed and distributed throughout the country.

In 1891 the committee reported that as it had been found to be impossible for the members to meet in convention, a circular had been sent to each member and to others, asking what steps had been taken to secure the appointment of commissioners in the different states. The replies showed that commissioners had been appointed in New York, Pennsylvania, Massachusetts, Michigan, New Jersey and Delaware. The committee found a substantial agreement of opinion that the desired uniformity could best be secured by the adoption by the state legislatures, of uniform acts prepared by these commissioners. The wisdom of this conclusion has been verified by the results of experience. "There was a substantial agreement in the view that the most urgent and immediate need of a uniformity or unification was in the matters affecting directly the business common to and coextensive with the whole country, such as the enforcement of contracts; the validity, negotiability and construction of commercial paper; and the formalities of all legal instruments and the proofs of their authenticity. It was apprehended that sudden, radical and fundamental changes in the laws of divorce, descent and distribution, however desirable, would meet with the greatest difficulty, and in most states, changes would more likely be adopted, if at

all, after the general advantages of uniformity in commercial matters had been demonstrated by experience."

The committee on uniform state laws has reported from year to year to the American Bar Association the appointment by state after state of commissioners on uniformity of legislation, and now there are commissioners from fifty-three states, the District of Columbia and our insular possessions, leaving only the state of Nevada unrepresented. As these commissioners thus appointed by the states meet in conference each year, the week before the American Bar Association meets, and in the same place, it has naturally resulted that the work on uniformity of legislation has been done by the commissioners at their conferences, and not by the committee on uniform state laws of the American Bar Association.

Uniform Negotiable Instruments Law.—At the conference held in Detroit in 1895, the committee on commercial law was authorized to employ expert assistance to draft a uniform act relating to negotiable instruments. John J. Crawford, an expert in this branch of law, was employed to prepare such a draft. It was then printed and distributed for comment and criticism.

At the conference of 1896 this draft was adopted by the conference and recommended for passage by the state legislatures. It was subsequently endorsed by the committee on uniform state laws of the American Bankers' Association as a "better law on the subject than any they could possibly frame." Their report was adopted, and the negotiable instruments law was distributed throughout the country by this association. Year after year it has been adopted in state after state, and it is now the law in forty-six states, territories, possessions and the District of Columbia.

Uniform Sales Act, Warehouse Receipts Act, Bills of Lading Act and Stock Transfer Act.—The conference secured the services of Professor Williston of the Harvard Law School to draft a uniform sales act; and of the same eminent authority with Barry Mohun of the Washington bar, to draft a uniform warehouse receipts act. The sales act has been adopted in eleven, and the warehouse receipts act in thirty, of our states and territories. In the same way a uniform bills of lading act has been framed and is now the law in twelve states; and a uniform transfer of stock act has been framed, and has been adopted in ten states. These acts were drafted by Professor Williston.

Methods of Preparation.—After careful consideration of each section of every one of these uniform laws in committee of the whole, by the conference, with the draftsman, each draft is printed in pamphlet form with notes and references to leading cases in every part of the country. Copies are distributed among jurists.

judges, law schools, textbook writers, lawyers, business associations and others whose interests may be affected by the act under consideration. The committee on commercial law gives public hearings in different cities during the winter, to hear suggestions for and against the act under consideration. Consideration thereof is resumed at the next annual conference and changes are made both from practical and from theoretical points of view. This course is continued from year to year, so long as the commissioners think it desirable. After reaching agreement in this painstaking way in committee of the whole, on each section of the proposed act, and after report accordingly to the conference, a vote is taken upon the final adoption of the completed act, each state casting one vote through its commissioners present. The final vote is generally unanimous. The expert chosen to draft a uniform law must be one who has knowledge of the law on the subject and the decisions thereon in all the states and also in England. He must know the history of the conflicting principles and doctrines that have resulted in the tangle of conflicting laws and decisions in that particular branch of the law. The number of such men is limited.

Relation of the Courts to these Laws.—The opinions by the courts of many states, in cases arising under the uniform Negotiable Instruments Law, show appreciation of the value of the work of this conference. See for instance, *Brewster vs. Schrader*, 26 *Misc.* 480; *Baltimore and Ohio R. Co. vs. First Nat. Bk. of Alexandria*, 102 *Va.* 753; *Am. Bk. of Orange vs. McComb*, 105 *Va.* 475; *Vander Ploeg vs. Van Zunk*, 135 *Iowa*, 350; *Rockfield vs. The First Nat. Bk.*, 77 *Ohio St.* 311; *Dollar Sgs. Banking Co. vs. Bowen*, 134 *Wash.*; *Wisner vs. First Nat. Bk. of Gallitzin*, 220 *Pa.* 21; *First Nat. Bk. of Shawano vs. Miller*, 139 *Wis.* 126; *Mechs. and Farmers' Bk. vs. Katterjohn*, 137 *Ky.* 427; *Campbell vs. Fourth Nat. Bk.*, 137 *Ky.* 555; *State Bk. vs. Bilstad*, 136 *N. W.* 204; *Brophy Grocery Co. vs. Wilson*, 45 *Mont.* 489; *Union Tr. Co. vs. McGinty*, 212 *Mass.* 205.

Unfortunately the courts in some states have not yet grasped the juristic conception of uniform state legislation and of uniform decisions thereunder as developing a new common law—a law common to all the states through uniform decisions in the different states under the same uniform law, based upon study of the decisions in their own and in other states of cases arising under the same sections of the same law, even though they override prior decisions in their own state. To complete the success of uniform state legislation, there must be uniformity in the decisions of cases under the uniform law. Later, if amendments are found to be necessary there must also be uniformity in amendments to the uniform law. This can only be successfully done

through recommendations to the state legislature by the same body that framed the uniform law. If different legislatures amend the law differently, there will be an end to uniformity in legislation.

Additional Uniform Acts under Consideration.—The draft of a uniform partnership law is still under consideration from year to year by the conference, delayed through the death of Dean Ames of the Harvard Law School. At the conference held in Boston in August 1911, a uniform child labor law was adopted after two years consideration. It was recommended for passage by the legislatures that met in 1912. A uniform law for marriages and marriage licenses was also adopted. The conference has under consideration a uniform employers' liability act, a uniform incorporation act, and a uniform partnership act.

The states which have adopted the various laws to October 1, 1913, are as follows:

NEGOTIABLE INSTRUMENTS LAW

States

Alabama	Nevada
Arizona	New Hampshire
Arkansas	New Jersey
Colorado	New Mexico
Connecticut	New York
Delaware	North Carolina
Florida	North Dakota
Idaho	Ohio
Illinois	Oklahoma
Indiana	Oregon
Iowa	Pennsylvania
Kansas	Rhode Island
Kentucky	South Dakota
Louisiana	Tennessee
Maryland	Utah
Massachusetts	Vermont
Michigan	Virginia
Minnesota	Washington
Missouri	West Virginia
Montana	Wisconsin
Nebraska	Wyoming

District of Columbia

Alaska

Hawaii

Philippine Islands

WAREHOUSE RECEIPTS ACT

California	New Mexico
Colorado	New York
Connecticut	Ohio
Illinois	Oregon
Iowa	Pennsylvania
Kansas	Rhode Island
Louisiana	South Dakota
Maryland	Tennessee
Massachusetts	Utah
Michigan	Vermont
Minnesota	Virginia
Missouri	Washington
Nebraska	Wisconsin
New Jersey	

District of Columbia

Alaska

Philippine Islands

SALES ACT

Arizona	New Jersey
Connecticut	New York
Maryland	Ohio
Massachusetts	Rhode Island
Michigan	Wisconsin

Alaska

DIVORCE ACT

Delaware	New Jersey	Wisconsin
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STOCK TRANSFER ACT

Louisiana	Ohio
Maryland	Pennsylvania
Massachusetts	Rhode Island
Michigan	Wisconsin
New York	

BILLS OF LADING ACT

Connecticut	Massachusetts
Illinois	New Jersey
Iowa	New York
Louisiana	Ohio
Maryland	Pennsylvania

Alaska

ACT RELATING TO WILLS EXECUTED WITH-
OUT THE STATE

Colorado	Michigan
Kansas	Rhode Island
Louisiana	Washington
Massachusetts	Wisconsin

Alaska

FAMILY DESERTION ACT

Delaware	North Dakota
Kansas	Texas
Massachusetts	Wisconsin

At the conference in Montreal in August, 1913, a special committee, A. M. Eaton, chairman, was appointed to secure uniformity in judicial decisions in cases arising under these uniform laws.

See CONSTITUTIONS OF STATES, CHARACTERISTICS OF; LEGISLATIVE REFERENCE BUREAU; LEGISLATURE AND LEGISLATIVE REFORM; MARRIAGE AND DIVORCE; STATE LEGISLATURE; STATUTES, STATE.

References: Conference of Commissioners on Uniform State Laws, *Annual Proceedings*; also in Am. Bar Assoc., *Annual Reports*; J. D. Crawford, *The Negotiable Instruments Law* (1908); J. D. Brannan, *Negotiable Instruments Law* (1910); S. E. Baldwin in *Harvard Law Review*, XXII, 403; F. Pollock, "Law of Reason" in *Michigan Law Review* (Dec., 1903); texts of the uniform statutes in Commission of Uniform State Laws, *Am. Uniform Commonwealth Acts* (1910); *Am. Year Book*, 1911, 172. AMASA M. EATON.

UNIFORMITY OF PUBLIC ACCOUNTS.

Since 1895 there has been substantial progress in a national movement to secure uniformity in the keeping of municipal accounts. It is desirable that the expenses of one municipality be contrasted with that of another, in order, if possible, to determine whether there has been extravagance, and to promote more economical administration. Such procedure also tends to make municipal accounts more intelligible, and thus enable citizens to understand more clearly the purposes for which expenditures are made, and to compare financial operations for a series of years. On account of the differences in the forms of city governments which have been chartered under different state laws, it is natural that the systems of accounting

should vary. In some cities the accounts record cash transactions only; and in others cash receipts and warrant expenditures, which represent expenditures authorized, but not necessarily paid. In others, the accounts set forth the amounts accruing as revenue or expenditures, regardless of whether received or paid. Confusion has also arisen because payments are classified according to the administrative agencies expending the same, rather than according to their objects. In many cases the system of keeping municipal records is prescribed by antiquated statutory provisions or by charter requirements. Another source of embarrassment is the lack of a standard terminology in accounting. There are indications, however, that accountancy is being recognized as an independent business art or profession, having in view something more than proficiency in bookkeeping.

Methods in Cities.—The National Municipal League, organized in 1894, early took the lead in emphasizing the need of uniform municipal accounting, and in 1901 the city of Newton, Mass., published a report of its finances according to the plan proposed by the League. Baltimore, Chicago, and several Massachusetts cities followed; then Ohio passed a uniform accounting law, which has been imitated by a few other states. Massachusetts in 1906 authorized its bureau of statistics to compile, analyze and publish the financial returns of cities. In the meantime the federal Bureau of the Census has engaged in the work of compiling statistics of cities, now published in annual volumes. Many states now require accounts of public institutions, or groups of such institutions, to be submitted in a prescribed form so as to publish comparative statistics. The federal accounts are by no means uniform within the departments, and in 1911 a President's Efficiency Commission (*see*) was created to study the whole question and suggest reforms. See BUDGETS, STATE AND LOCAL; PUBLIC ACCOUNTS. References: F. A. Cleveland, *Chapters on Municipal Administration and Accounting* (1909); R. H. Hess, "Cost of Government in Minnesota" in Minnesota Tax Commission, *Second Biennial Report* (1910), chs. xxii-xxiii; *Statistics of Cities, Special Annual Reports* (since 1903); J. A. Fairlie, *Essays in Municipal Administration* (1908), 275-285.

DAVIS R. DEWEY.

UNIFORMITY OF RAILROAD ACCOUNTS.

Previous to the enactment of the Act to Regulate Commerce in 1887, there was little uniformity in the accounting systems of the various railroads. Section 20 of the act of 1887 provided that the commission might, within its discretion, prescribe the manner in which the accounts of carriers should be kept. This provision was a part of the section requiring annual reports and prescribing their character, and such development of uniform accounting

as took place in the early years of the commission's history was associated with the movement for uniform annual reports.

A "classification of operating expenses," adopted by the state railroad commissioners in 1879, was in general use among the railroads and this was early revised and issued by the commission. Through the requirement of uniformity in annual reports, uniformity had developed to some extent in the bookkeeping methods of the carriers.

But section 20 was not deemed sufficiently comprehensive in its terms to authorize the commission to impose a system of accounting upon the railroads. By an amendment to the act in 1906 the commission was given authority to prescribe bookkeeping methods, and penalties were provided for failure to conform to the methods prescribed. Employment of examiners to inspect the books was authorized. Under this authority the commission, in collaboration with the accounting officers of the railroads, has proceeded with the construction of a uniform system of accounting which includes every phase of railroad operating and finance. This work was carefully completed in 1913 and is being adopted generally by the railroads. Opposition has developed to some of the orders of the commission, notably in the matter of depreciation accounts, and certain matters of dispute will have to be passed upon by the courts before the system of uniform accounting can be put completely into operation. See INTERSTATE COMMERCE COMMISSION; RAILROAD CAPITALIZATION; RAILROAD COMMISSIONS, STATE. Reference: H. C. Adams in *Quart. Jour. of Econ.*, XXII (1908), 364-383. F. H. D.

UNION. A word often vaguely used in somewhat different senses. It is sometimes used to mean the United States as a federal state or federal republic; sometimes the national government in distinction from the states; sometimes the relationship between the different commonwealths of the federal state. Especially in early days the word Union was used in a somewhat more primitive sense to mean the coöperation of the states and people as contradistinguished from disunion or secession. A. C. McL.

UNION LABOR. This term is applied to all work done by the members of labor organizations, or under conditions which are established by a collective bargain between unions and employers. It is more broadly applied also to labor unions and their activities considered collectively. See LABOR ORGANIZATIONS; OPEN AND CLOSED SHOP. Reference: F. T. Carlton, *Hist. and Problems of Organized Labor* (1911). J. R. C.

UNION LABOR PARTY. This party appeared in national politics in a single cam-

paign, that of 1888. It was the successor of the Greenback party (*see*) and the predecessor of the Populist party (*see*), representing essentially the principles of these parties. It was formed by a union of the Greenback Labor Party (*see*), with the industrial trade union movement in politics. Its name implies the purpose for which it stood, to secure the union of rural and urban labor for industrial reforms on advanced democratic lines. Its platform related chiefly to: (1) land; (2) transportation; (3) money. It opposed land monopoly and favored limitation of land ownership; demanded public ownership of transportation lines; a national greenback currency, with "free coinage of silver (*see* SILVER COINAGE CONTROVERSY) while we have free coinage of gold;" arbitration in labor troubles; a graduated income tax; popular election of U. S. Senators; and woman suffrage. It proclaimed as the paramount issue "the abolition of usury, monopoly, and trusts." The party nominated A. J. Streeter, of Illinois, for President, and polled 146,897 votes. See LABOR PARTIES. References: E. Stanwood, *Hist. of the Presidency* (1898); M. Hillquit, *Hist. of Socialism in the U. S.* (1903). J. A. W.

UNION PARTY. The Union, or the National Union party was the name assumed by the Republican party in the campaign and election of 1864 and for the years immediately following. The assault on the flag at Sumter and the outbreak of the Civil War tended to dissolve party lines in the North, and men of all parties rallied to the support of the Union. The war had not advanced far, however, until party opposition arose to the war administration, and new lines of party cleavage appeared. This opposition worked under the name and with the organs of the Democratic party and it sought to turn Mr. Lincoln's administration out of power on the ground that the war was a failure as a means of saving the Union; that it was being perverted from a Union-saving war to a war for abolition, that the Constitution was being violated by arbitrary arrests, the suppression of free speech, etc. Mr. Lincoln and his supporters appealed for support to the "War Democrats" and to all who would stand by the Union at whatever cost and continue the war for its preservation. The Republicans were, therefore, ready to abandon their distinctive party character, to take a new name, and to put forward a new paramount issue: and, "laying aside all differences of political opinion," they required only one test of membership in the party, namely, a desire for "the unconditional maintenance of the Union, the supremacy of the Constitution and the complete suppression of the existing rebellion by vigorous war and all apt and efficient means." Thus the national committee in its "call"

for the convention, assumed responsibility for suppressing the party name, which was done also in the official proceedings of the convention. In order to give a "Union" and not a "Republican" cast to the party, Andrew Johnson, a Democrat from Tennessee, was nominated for Vice-President with Lincoln, and many former Douglas and Breckinridge Democrats in the North and in the border states came into the "Union" party in 1864, while others who had supported Lincoln and the Republicans in 1860 on the issue of slavery extension refused their support to the so-called "Union" party in its war methods of saving the Union. The great body of the "Constitutional Democrats" held this "National Union" party to be merely the Republicans under another name, as in fact it was, for the most part; and they charged the Republicans with resorting to this change of name and issue as a means of gaining for themselves the benefit of the deep seated and wide spread Union sentiment in northern and border states. After the war the Union party divided into Conservative and Radical wings on the problem of reconstruction (*see*). The Radicals came into dominating control of the party and in the national presidential convention of 1868 the name "National Union Republican" party was assumed. See DEMOCRATIC PARTY; REPUBLICAN PARTY. References: W. A. Dunning, "The Second Birth of the Republican Party" in *Am. Hist. Review*, XVI (1910), 56-63; J. K. Hosmer, *Outcome of the Civil War* (1907), ch., ix. JAMES A. WOODBURN.

UNION SAVER. The element of the Whig party during the two decades preceding the Civil War, which advocated compromising measures in dealing with slavery. They would preserve the "compromises of the Constitution" and save the Union at the price of granting the concessions demanded by the South.

O. C. H.

UNIT RULE. This rule is in vogue in Democratic national conventions. When instructions are given to delegates by the state conventions to vote as a unit, such instructions are recognized and enforced by the national convention; the majority of the delegation has a right to determine how the total vote from the state shall be cast. "When the states are called to vote, the announcement of the chairman of the delegation is accepted as the correct vote of the delegation unless challenged by some member of it, in which case the delegation is polled in open convention. If the delegation is under unit instructions the vote of the state is then cast as a unit with the majority; if not, the vote stands as polled." Thus the state convention is recognized as of supreme authority. The Republicans have never adopted this rule. It is an inheritance of the Democratic party

and a survival of its traditional state rights principles. "I bid you consider long and well," said a delegate in the Democratic convention in 1884, "before you strike down the sovereign power of our state expressed by the unanimous will of its delegates." There was much discussion of the rule in the convention of 1912, but it was finally decided to enforce the rule "except in such states as have by mandatory statutes provided for the nomination and election of delegates to national conventions in congressional districts." See CONVENTION, POLITICAL; NOMINATION OF THE PRESIDENT. References: J. A. Woodburn, *Political Parties and Party Problems* (1903), 182-190; C. Becker, "Unit Rule in National Nominating Conventions" in *Am. Hist. Review*, V (1899), 64-83.

A. C. McL.

UNITARY STATE. That form of government in which the entire governmental authority is vested fundamentally in a single organization, in distinction from a federal government, and in which the local units are creatures of the central government, their existence and powers being modified or destroyed at its pleasure. Examples, are France and England. See STATES, CLASSIFICATION OF.

B. E. H.

UNITED LABOR PARTY. The smaller, and the more radical, of two Labor parties which appeared in the presidential contest of 1888. It agreed with most of the platform of the Union Labor party (*see*) of that year, but differed from that party chiefly by its insistence upon the single tax and the abolition of private property in land. It traced economic evils to "a fundamental wrong—the making of land the exclusive property of only a portion of the community." It proposed to take the unearned increment for society and have "no man taxed on the wealth he produces." Rev. Father McGlynn was prominent in the party's councils. It cast 2,808 votes for R. H. Cowdrey, of Illinois, for President. See LABOR PARTIES. Reference: Appleton's *Annual Cyclopaedia*, 1888, 778.

J. A. W.

UNITED NETHERLANDS. Stirred by the horrors of the "Spanish Fury" there was formed on November 8, 1576, a treaty between the several provinces of the Netherlands. This agreement was known as the "Pacification of Ghent." By its terms, the provinces bound themselves to unite in driving out the foreign soldiery, the Protestant faith was established in Holland and Zeeland and was guaranteed toleration in other provinces, and the Inquisition was condemned. This treaty was confirmed by popular acclamation. In 1579 this agreement took definite and lasting form in the Union of Utrecht, by

which William the Silent, Prince of Orange, brought together the seven provinces of Holland, Zeeland, Utrecht, Gelderland, Zutphen and the two Frisian provinces into a league which was eventually to grow into the Republic of the United Netherlands. It endured down to 1746, when an hereditary stadtholdership was accepted. The form of polity under which the Netherlands were organized was a loose confederation, leaving always a backdoor of escape open from a federal to a monarchial form. An assembly of delegates, called the

States General, deliberated for the entire confederation, possessing the power of levying duties as well as of making war and of negotiating peace. A glaring weakness was found in the rule of unanimity of all the separate estates in war, peace and alliance. The modern kingdom of the Netherlands was formed in 1815. See CONFEDERATION; FEDERAL STATE. References: H. Treitschke, *Politik* (1900), II, 311; J. D. Wooley, *Pol. Sci.* (1889), II, 223-235; T. E. May, *Democracy in Europe* (1891), 51-86. B. E. H.

UNITED STATES AS A FEDERAL STATE

Definition.—A federal state has been defined by Mr. Dicey as “a political contrivance intended to reconcile national unity and power with the maintenance of ‘state rights.’” While this definition might perhaps be attacked on purely theoretical grounds, it will hold good for practical purposes. Certainly the United States may justly be said to have been established to attain such objects, to make the Union strong and competent, while leaving or reserving to the states adequate power to care for local interests. The nature of the federal system in America has been elaborately discussed in American history in connection with the doctrine of state rights and state sovereignty, and gradually through practical operation of government, through civil war, and through a multitude of judicial decisions, the nature of the American Union has been established or brought to light.

Location of Sovereignty.—In considering any system the first question must naturally be the location of sovereignty. This very word, so freely bandied about in political harangues and theoretical treatises, always presents difficulties because of the uncertainty of its real significance. But if we mean by the word nothing more than the power, recognized by the legal structure of the state, ultimately to do everything and any thing of a political character, we should have to say that sovereignty resides in America in the power which can amend the Constitution of the United States, which could, therefore, redistribute power between the center and the parts or put new limits on governmental action. As the law now stands there is only one peculiar restriction on the power of amendment, *viz.*, the provision that no state shall, without its consent, be deprived of its equal suffrage in the Senate (Art. V). We are not thinking in terms of *law* at all when we speak as if the mass of the people, by methods unprovided for by the existing system, could freely work their will in the reorganization of the republic. It must be said however that this theory as to the residence of sovereignty in the amending

power can not be considered established either by judicial construction or by ordinary assumption. It is still common to speak of one of the commonwealths of the Union as a sovereign state, and by this is meant that it possesses great powers of sovereignty and, probably, even more, attributes of sovereignty. It was common in years gone by to speak of divided sovereignty, and though theoretical publicists may cast such an idea to the winds as illogical and inconceivable, it is probably correct to say that on the whole, if we look through the course of constitutional construction, the ordinary notion has been that the states came into the Union and surrendered a portion of their sovereignty.

This matter of sovereignty is now, fortunately, only of historical or theoretical interest. It is now well established that we have a Constitution, which provides for its own essential alteration by amendment, assumes the existence of states possessed of all power which is not prohibited either expressly or impliedly by the Federal Constitution. Despite the great changes wrought by the Civil War and especially in the adoption of the Fourteenth Amendment (*see*), the fundamental fact of distribution is still stated in the Tenth Amendment:

The powers not delegated to the United States by the Constitution, not prohibited by it to the states, are reserved to the states respectively, or to the people.

The Federal Constitution is a grant of powers, and the government has only the power granted. There has, however, been a tendency, especially noticeable in recent years, to declare that the Federal Government possesses rights and authority beyond the enumerated powers. One form of argument in behalf of the theory has its attractive qualities; for it is cogently argued that the nation is and should be totally competent and that when the states cannot act, because the need to be met is not one merely of a single locality, then the national government, representing all the people, should have the complete power to

act. This doctrine is different from the doctrine of implied powers (*see*) and even different from that of resulting powers (*see*); but it is not easily distinguishable from that of "inherent sovereignty" which would appear to mean that all legislative power must be vested somewhere, that the states can care only for purely local matters, and that consequently all powers national in their scope must be vested in the national government, a doctrine which was emphatically rejected by the Supreme Court in 1907 in the case of *Kansas vs. Colorado* (206 U. S. 46).

Two Governments.—The scheme of federal organization in the United States contemplates the existence of two governments immediately over each citizen, each government limited in its scope, but each with authority to act without conflict or, commonly, without even contact with the other, and to act directly through its own officers. Such a scheme is not a necessary method in a federal state; in Germany, for example, the central government largely depends upon the commonwealth officials in the execution of the laws of the empire. But American experience under the Confederation (*see*) instructed the framers of our Constitution to avoid relationship with state governments. This absence of contact between governments cannot be fully maintained; the court system of the national government is to some degree interlocked with the court system of the states; and while legislation could presumably go further than it has done to secure exclusive jurisdiction in federal courts, complete isolation would practically be impossible; legislation has provided for the right of appeal under certain conditions from state courts to the federal Supreme Court, as well as for the removal of causes (*see* COURTS, FEDERAL). Federal courts have even gone to the extent of enjoining proceedings in state courts, a step which, however, would be taken only in exceptional circumstances. Moreover, the courts of the United States have issued injunctions to state officials restraining them from carrying out acts alleged to be unconstitutional; and writs of mandamus have been likewise awarded. Exceptions are, however, here unimportant; the main quality of the American federal system is that each government makes and administers its own laws, and in the vast majority of cases uses its own officers and those alone. The simple principle is that if one government is acting within its constitutional limits, the other will not interfere. A principle which makes this whole system more workable than it otherwise would be is this, that an officer attempting to execute an unconstitutional law is in law not acting as an officer.

Concurrent Power.—The fact that certain powers are given to the national government is not complete evidence that the states cannot legislate; on the contrary the states may

also legislate provided they are not prohibited; the prohibition may be express or implied, and the implication may arise from the character of the power and from the nature of the two governments and their fields of activity. In some few cases there is opportunity for actual concurrent action; in others, even when the state has the right to legislate upon a certain subject, its legislation is suspended when Congress enters the field (*see* CONCURRENT POWERS).

Supreme Law of the Land.—The Constitution and the laws of the United States and all treaties made under the authority of the United States are the supreme law of the land (Art. vi, ¶ 2.) All state acts or constitutions at variance with the constitutional law and treaties are *ipso facto* void. Thus the Constitution itself is law, and the courts of the states are called upon by a recognition of its binding effect to preserve the essentials of the federal system. The early defenders of "state rights" did not so much seek to prove that the states were not bound by the plain sense of the Constitution, as to declare that the national government was so bound and it was not the final judge of its own authority (*see* VIRGINIA AND KENTUCKY RESOLUTIONS). Of course this principle was insisted upon by the advocates of state sovereignty and nullification. The federal Supreme Court always maintained its right to judge, in cases properly brought before it, of the extent of federal and state authority. This right of the court, often asserted even in early days, is now a settled principle of the American law (*see* LAW, CONSTITUTIONAL AMERICAN; COURTS AND UNCONSTITUTIONAL LEGISLATION). It is needless to say that the states may by the process of amendment place an interpretation on the Constitution or, as we have said, radically alter its terms.

New States.—The United States has gradually grown by the admission of new states (Art. IV, Sec. iii) and for this the Constitution expressly provides (*see* NEW STATES, ADMISSION OF). There is some reason for thinking that the framers of the Constitution did not intend to make the equality of states a constitutional necessity (*see* CONSTITUTION OF THE UNITED STATES, COMPROMISES OF). When the subject of admission of new states was under discussion in the Convention, there was objection from some of the members to the admission of new states in the West on terms of equality with the old, and the final provision of the Constitution on the subject looks like a compromise or an evasion of the principle. The actual practice of Congress in admitting new states has likewise thrown doubt upon the character of the Union in this particular. The right to place conditions on admission is not open to question and probably this right would include the power to place conditions which, could they be enforced, would

have the effect of preventing the new state from exercising freely in all respects the full measure of political power possessed by other members of the Union. Conditions of the latter variety, valid as conditions precedent, cannot probably be legally enforced after admission; we may consider it as established doctrine that a state once in the Union has its full and equal share of political power, or, to use the words of the Federal Court, "All the rights of dominion and sovereignty which belonged to the original states" (*Bolln vs. Nebraska*, 176 U. S. 83; *Coyle vs. Oklahoma*, 221 U. S. 559).

Indestructible Union.—The Civil War decided once for all that the states could not secede and that the Union was indestructible. The right to coerce a state was a subject of considerable discussion at the outbreak of the war. The Constitution plainly does not provide for coercion, and probably in strictest theory there is no need at any time for actual coercion of states as such; the central government coming into immediate contact with its own citizens can hold them to their allegiance and can force them to obey the law. No means are provided by the Constitution for compelling states to perform their political functions. Should a state refuse to abide by a decision of the Supreme Court of the United States in a case where a state was a party, for example in a suit between states, difficulties might conceivably arise; but in all probability here again the power over individuals, a power supported by the doctrine that officers of states acting illegally are not officers in the eye of the law, would in most cases avoid in theory the actual conflict between governments. *Mandamus* moreover, as we have said, may in some circumstances be awarded to compel performance of duties purely administrative in character.

Citizenship.—A full appreciation of the nature of the federal system necessitates knowledge of the principles of citizenship and also of the relations between the states. These subjects are discussed in other portions of this *CYCLOPEDIA* and only a word is necessary here (see *CITIZENSHIP IN THE UNITED STATES*; *COMPACTS BETWEEN STATES*; *DOUBLE CITIZENSHIP*; *PRIVILEGES AND IMMUNITIES*; *INTERSTATE LAW*). The United States bestows citizenship on aliens; and a person born or naturalized in the United States and subject to the jurisdiction thereof is a citizen of the United States and the state wherein he resides. In general the principles of private international law (see) are the principles of interstate law; but the Constitution has made certain matters (see *EXTRADITION*; *FAITH AND CREDIT*; *JUDGMENTS*, *INTERSTATE RECOGNITION OF*), which might otherwise rest on comity, constitutional obligations.

See *BUNDESSTAAT*; *CONCURRENT POWERS*; *CONSTITUTION OF THE UNITED STATES*, PRO-

HIBITIONS IN; *DOUBLE CITIZENSHIP*; *FEDERAL STATE*; *INTERSTATE LAW AND RELATIONS*; *STATE SOVEREIGNTY*; *STATES, CLASSIFICATION OF*.

References: W. W. Willoughby, *Constitutional Law of the U. S.* (1910), *passim*, *Nature of the State* (1896), 238-275; J. Bryce, *Am. Commonwealth* (4th ed., 1910), I, 32-37, 312-358; C. A. Beard, *Am. Government and Politics* (1910), ch. iii; A. V. Dicey, *Introduction to the Study of the Law of the Constitution* (1908), 134-176; J. W. Burgess, *Pol. Sci. and Comparative Constitutional Law* (1893), I, 142-154.

ANDREW C. MACLAUGHLIN.

UNITED STATES AS A TERRITORIAL EXPRESSION. The United States as a territorial expression has, in international law, a meaning different from that which it has received in constitutional law. Within this latter field it has, in turn, a variety of significations. Internationally speaking the United States includes every portion of the world's area over which it claims, and is by other nations recognized to have, paramount political authority. Indeed there is some justification for saying that it includes territories temporarily under the *de facto* authority of the United States and for the control of the affairs of which the United States is internationally responsible. This international significance of the term is pointed out by Justice Brown in his opinion in the *Insular Case of Downes vs. Bidwell* (182 U. S. 244) where he says:

In dealing with foreign sovereignties, the term "United States" has a broader meaning than where used in the Constitution, and includes all territories subject to the jurisdiction of the Federal Government, wherever located. In its treaties and conventions with foreign nations this government is a unit. This is so, not because the territories comprise a part of the government established by the people of the United States in their Constitution, but because the Federal Government is the only authorized organ of the territories, as well as of the states in their foreign relations

Constitutionally speaking, the term United States has, as has been said, several distinct meanings. In the first place it means all the areas on land or water which are beneath the sovereignty of the political entity known as the United States. In this sense the constitutional and international meanings of the term are practically synonymous. In the second and more restricted sense the term United States is held to include the states of the Union and those territories which have, by congressional action, been incorporated into the Union. In a third and still more territorially restricted sense, the term United States has reference only to the member states of the Union. In the *Insular Cases* to which reference has been made above, Justice Brown would have given to the term United States this third constitutional meaning. The four other justices who concurred in the judgment

which was rendered gave to the term the second meaning. The four dissenting justices argued that it should be held to apply to unincorporated as well as incorporated territories. The opinion of the four concurring judges would seem, by the language of the Supreme Court, in *Rassmussen vs. United States* (197 U. S. 516), to have been definitely adopted as the doctrine of that tribunal.

See CITIZENSHIP IN THE UNITED STATES; INSULAR CASES; TERRITORY IN INTERNATIONAL LAW; TERRITORY, CONSTITUTIONAL QUESTIONS OF; TERRITORY OF THE UNITED STATES, ORGANIZED.

References: W. F. Willoughby, *Territories and Dependencies* (1905); J. H. Latané, *America as a World Power* (1907), ch. viii.

W. W. WILLOUGHBY.

UNITED STATES, POPULATION OF. See POPULATION OF UNITED STATES.

UNITED STATES vs. PETERS. In a proceeding in an admiralty court of the United States the right to the proceeds of a prize was adjudicated. Subsequently the state of Pennsylvania asserted a right to such proceeds. Thereupon in a proceeding in the Supreme Court of the United States to compel the judge of the admiralty court to carry into effect his decision (1809, 5 *Cranch* 115), it was held that a state can not by its action annul judgments of federal courts nor determine the jurisdiction of such courts; and also that the state was not a party within the prohibition of the Eleventh Amendment. See COURT OF APPEALS IN CASES OF CAPTURE; ELEVENTH AMENDMENT; STATES AS PARTIES TO SUITS. References: J. F. Jameson, *Essays in Constitutional History* (1889); R. Hildreth, *Hist. of U. S.* (1880), III, Sec. 2, 155-165.

E. MCC.

UNIVERSITIES AND COLLEGES, ENDOWED AND PRIVATE. Usage of the words "university" and "college" differs in the United States from that of other countries, although showing a descent from England. The hordes of students pouring into the cities of Europe at the dawn of learning, formed a *universitas* or "whole," which it was necessary to divide into many *collegia* or societies, each engaged in the pursuit of a particular kind of knowledge. This system gave rise to a university of Oxford and another at Cambridge, each composed of many colleges.

This concept of an institution of higher education was brought to America by graduates of these universities, ninety of whom, it is said, emigrated to New England prior to 1648. The religious motive influencing migration gave an ecclesiastical turn to the first seats of learning established, thus transforming the manifold university into the unified college. The colonial institutions were col-

leges in name and in function; but by adding courses of study, without changing their generic form, they later assumed the title of universities and thereby caused a confusion of terms.

Modern Definitions.—This confusion exists to the present day. Any institution of higher learning feels at liberty to call itself a university although consisting of only one institution and perhaps devoted to one line of study. As time progressed and the organization grew more complex, the university began to call its subordinate divisions "colleges," in imitation of the English system. Thus Cornell University consists of nine colleges, viz.: Graduate, Arts and Sciences, Law, Medicine, Veterinary, Agriculture, Architecture, Mechanical Engineering and Mechanic Arts, and Civil Engineering. But each college is an integral part of the university in general administration, fiscal management, financial support and in the interchange of students. Each is independent only in such minor details as determining the course of study, the laboratory charges and the requirement for graduation. This subdivision into parallel colleges of undergraduate grades is usually quite ignored by the students in their social organizations.

The word "university" is also, in a few cases, employed to designate an institution devoted wholly or in large part to graduate instruction. Few of our institutions have the courage to depart from the tradition that their graduate students require a peculiar prerequisite training which they alone are competent to give; fewer still are able to endure the stigma of small numbers which a total separation of graduate from undergraduate instruction would bring. The rare institutions which claim to impart only graduate instruction find a saving practice in a broad definition of the word "graduate." The impracticability of drawing a sharp line between graduate and undergraduate courses in the United States is due largely to the characteristic haste and desire to enter speedily a lucrative career. Personal efficiency is as distinctly the purpose of higher education in this country as personal culture is in England or personal knowledge in Germany.

As defined by the National Association of State Universities:

The term "college" is restricted to a branch of the university, which has a considerable faculty devoted to teaching the special subjects of that branch. The following lines of work in the university are to be organized into colleges: (a) Arts and Sciences; (b) Medicine; (c) Law; (d) Engineering; (e) Agriculture.

The Association of American Universities added the proviso that "the college must maintain a standard of admission which is the equivalent of that required by the Carnegie Foundation for the Advancement of Teaching and must offer instruction leading to a first

degree in Arts, Letters or Science." By this arrangement the undergraduate work constituting the "College" would lead to a bachelor's degree; the graduate work constituting the "Graduate School" would lead to the master's or doctorate degrees. But the Doctor of Philosophy and Doctor of Divinity of the graduate school must be distinguished from the Doctor of Medicine, the Doctor of Veterinary Medicine, and the Doctor of Dental Surgery of the professional schools which are partly undergraduate courses. This confusion of terms is increased by the ambition to assume the title of "university." Of the more than six hundred institutions entitled by their charters to grant degrees, not thirty deserve the title of "university"; and at least one of them is a city high school. Many colleges take the liberty of granting doctorate degrees; some honorary, some requiring a minimum of resident work, and some for revenue only.

Private and Public Institutions.—American colleges and universities may be classified into church supported or privately endowed institutions, as contrasted with those maintained by the state and federal governments. But even those of the first class maintain some distinct relationship to the state; their charters are usually granted by the state legislatures or by an official in whom the power is vested by law and those charters become contracts not repealable by later legislative acts. The power of conferring degrees is commonly based upon legislative authority although the preparation for the degree is in no wise controlled by the state.

Colleges in colonial days received government aid in various ways; but after the Revolution, they were supported largely by private benefactions and by church contributions. State control was resisted by the institutions because their mission was largely to train up ministers who should be free from the taint of religious establishment. Pinckney and Madison, however, in the Federal Convention, would have inserted in the Constitution a provision for a national university under the support and control of the Federal Government. Washington repeatedly advocated the same plan. As the state constitutions were adopted, several embodied the thought of a state supported university, Pennsylvania being among the first. The Dartmouth College case (*see*), in 1819, which was a contest for control between two boards, one representing the state and the other the church, is characteristic of the trend of the times. North Carolina, South Carolina, and Virginia really established state colleges or universities, as they were ambitiously called. As the new states were carved out of the Northwest, they established the precedent of giving large tracts of land for the support of colleges and universities. Congress in 1862 gave grants of public lands to all the states and territories,

which were bestowed upon these state institutions or which were used to found new "Agricultural and Mechanical Colleges." The states have contributed to the support of these colleges by grants of money and land.

Numbers.—In 1912 there were 596 universities in the United States; 89 were under state or municipal control, and 507 on private foundation. They employed a teaching force of 30,034, and enrolled 199,518 students. Twenty years earlier there were 430 creditable institutions of higher learning, enrolling 47,425 students, and employing 8,472 instructors. During the same period the percentage of women to men in colleges and universities rose from nineteen to nearly fifty. The number of earned doctorate degrees increased from 138 to 514, and the number of honorary doctorate degrees decreased from 930 to 742.

See COLLEGE; DEGREES, ACADEMIC; and under EDUCATION.

References: C. F. Thwing, *College Administration* (1900), ch. i; G. Compayre, *Abelard, and the Origin and Early History of Universities* (1893); Commissioner of Education, *Annual Report* (1909), I, 90-93; Carnegie Foundation for the Advancement of Teaching, *Reports; Am. Year Book, 1910, 797, ibid, 1911, 817-823; ibid, 1912, 804-814.*

E. E. SPARKS.

UNIVERSITIES, STATE. See STATE UNIVERSITIES.

UNIVERSITY EXTENSION. The thought of extending university teaching to the general public through organized centres first took shape at the University of Cambridge, England, in 1873. It was intended to serve the great middle class. Twenty-five courses of paid lectures were given by University instructors in Derby, Nottingham and Leicester. The total attendance was about 3,200, of whom 368 took the examinations. The movement spread to Oxford, to Victoria University, and to London, and later to Scotland and Ireland.

In 1888, Dr. John H. Vincent and Professor Herbert B. Adams, of Johns Hopkins University, with others, issued an elaborate prospectus for a "Chautauqua University Extension," which proposed to coöperate with societies and organizations by using the extension methods of England. Spasmodic centres were organized and lectures given in Baltimore, Buffalo, St. Louis, Cleveland, New York, Chicago, Milwaukee, and Denver.

The first permanent organization was made at Philadelphia, in 1890, when the American Association for the Extension of University Teaching was formed. Professor R. G. Moulton, one of the most successful extension lecturers in Cambridge, was brought over and the work regularly inaugurated at Roxborough in November, 1890. During the winter follow-

ing, 23 centres were organized in and about Philadelphia and supplied with lecturers drawn from colleges in the vicinity. Citizens of Philadelphia contributed largely to the support of the undertaking: a monthly magazine known as *University Extension* was established; and the work was extended to adjacent cities in Pennsylvania, New Jersey, and Delaware. The legislature of New York aided by appropriating \$10,000 for the introduction of the work in that state under Melvil Dewey, Secretary of the University of the State of New York. A national conference assembled in Philadelphia in December, 1891.

The zeal speedily abated and the movement ended or assumed other forms in all except a few localities. Dr. William R. Harper, who had taken part in the Chautauqua Extension work, created a university extension division in the University of Chicago in 1890, placed Professor Moulton at its head, and, until his death in 1906, maintained the most successful extension work done in America. During its best years, the division sent out as many as 29 lecturers to 188 centres who lectured to 53,841 people. The centres extended from western Pennsylvania to Kansas and from Minnesota to Kentucky inclusive.

The lecture was usually followed or preceded by a class or quiz on the points made in the previous lecture. Students were encouraged to submit written exercises which were annotated and graded by the lecturer and then returned to the writer. At the end of the course of lectures, an examination was held, and a grade given upon the written work and examination. Credit toward a degree was allowed in many institutions for satisfactory grades gained in extension work.

A few extension lecture centres, study classes and correspondence classes are still continued (1913) by the American Society at Philadelphia, by the University of California and spasmodically in a few cities. In Boston a formal system of extension courses was founded in 1910 by a combination of the Lowell Fund for lectures with five colleges and universities of the vicinity, conferring a special degree of A. A.—Associate in Arts.

Reasons for the decline of the movement in America may be found in the fickleness of popular favor, the rise of correspondence schools, the multiplication of Chautauqua assemblies, the abundance of reading matter, and the growing attendance upon free high schools. A large part of the class which supports extension teaching in England goes to college in America.

In recent years, the University of Wisconsin, which formerly maintained a strong department under the Cambridge plan, has developed a new idea which is being adopted by other tax-supported institutions, i. e., of extending public service to the communities of the state by lectures, pamphlets, references and

libraries. The plan includes the organization of night schools, apprentice schools, debating societies, artisan conferences, instruction trains, secondary agricultural schools, nature study leaflets, correspondence schools, and the like. Similar work has been inaugurated by the state universities or state colleges of Pennsylvania, Ohio, Oklahoma, Georgia and others. The prime purpose is to carry to the people the knowledge gained in the agricultural, engineering and mining experiment stations of the states.

See EDUCATION, RECENT TENDENCIES IN LIBRARIES, PUBLIC; SCHOOLS, CORRESPONDENCE; SCHOOLS, NIGHT; SCHOOLS, SUMMER; UNIVERSITIES AND COLLEGES, ENDOWED AND PRIVATE.

References: D. H. Roberts, *Eighteen Years of University Extension* (1891); Commissioner of Education, *Annual Reports*, 1891-1892, ch. xxi; H. B. Adams, "University Extension and Its Leaders" in *Review of Reviews*, III (1891), 593-609, *University Extension*, I-IV (1891-94), *passim*; L. E. Reber, "University Extension" in *Science*, XXXII (1910), 97-104.

E. E. SPARKS.

UNRECONSTRUCTED. A term applied to southerners who did not accept the settlement after the Civil War as equitable or necessarily permanent, particularly the Fourteenth and Fifteenth Amendments. In general, the term applies simply to people who still feel that the treatment of the South justifies a permanent resentment toward the North. Much of this sense of abiding grievance disappeared in the Spanish War of 1898 when former Confederate officers received commands and northern and southern troops served together. See RECONSTRUCTION. References: W. A. Dunning, *Essays on the Civil War and Reconstruction* (rev. ed., 1907), *Reconstruction—Pol. and Economic* (1907); W. Wilson, *Hist. of the Am. People* (1902), V; W. L. Fleming, *Documentary Hist. of Reconstruction* (1906-07).
A. B. H.

UNWRITTEN LAW. Not only by the common law which prevails in England and in the United States but also by the civil law which prevails in Europe, the law consists not only of legislative enactments but also of those principles of right and justice which are based on custom and usage of the people and recognized in the courts in the determination of controversies. That portion of the law observed and administered in the courts which has not been enacted or promulgated in constitutions or statutes is called the unwritten law. Its principles and rules are ascertained by reference to the promulgated opinions of the courts in the decision of particular cases, and the discussions and explanations of principles by authors or expositors who have come to be recognized as learned in the branches of law of which they treat. The

decisions and expositions thus promulgated are not a part of the written law although they have been reduced to writing, but they are treated as statements of the unwritten law so far as they do not interpret and apply the provision of the written law. Even in that respect they are not a part of the written law but only explanations and expositions of it. The use of the term "unwritten law" as expressing some popular sentiment of the community which will be recognized by juries in the trial of particular classes of cases outside of the rules and principles recognized by the courts in performing the function of determining the law both written and unwritten is wholly unauthorized. See **LAW, COMMON.**

E. McC.

URBAN DISTRICT COUNCIL. The name of the administrative organ of the "urban district," a local area established by the English Local Government Act of 1894 (57 and 58 *Victoria*, C. 73). These areas are for the most part the so-termed improvement district, and health districts, which, prior to 1894, had been created by various general acts relating to public works and public health. There are 820 urban districts in England and Wales. They range in size from Childwall in Lancashire with a population of about 250 to Willesden in Middlesex with a population of about 150,000. New districts may be created by the County Council, after a poll of the electors has been taken, but such action must be confirmed, before it becomes operative, by the Local Government Board.

The urban district council is an elective body, its members being chosen by the voters for a three-year term, and as a rule one third of the councillors retire each year. The suffrage is broader than at borough or county elections; it includes all lodgers who are qualified to vote at parliamentary pollings, and all women who are ratepayers whether married or not, although husband and wife may not both qualify on the same property. Any voter may be elected to the council, women included. Elections take place on the first Monday in April. Unlike the borough council, the urban district council adds no aldermen to its number; it selects its own chairman annually, and its members serve without pay.

The powers of the urban district council are connected chiefly with highways and sanitation. It is the chief local authority in both these fields of administration. In addition it has various powers with respect to local libraries, baths and washhouses, burial grounds, and parks. It has some educational powers under the Education Act of 1902, and with the approval of the central authorities may own and operate gas or electric lighting works, or tramways. The council obtains its revenue by the levy of a district rate, from treasury subventions, and from betterment

taxes. With the approval of the Local Government Board it may negotiate loans for permanent improvements or for the establishment of public utilities.

See **DISTRICTS, RURAL, ADMINISTRATIVE; LOCAL GOVERNMENT IN ENGLAND.**

References: J. Redlich and F. W. Hirst, *Local Government in England* (1903), II, 116-143; R. Donald, *Municipal Year Book of the United Kingdom*, 1910, 253-351; W. B. Odgers, *Local Government* (1901), 129-148; Local Government Board, *Annual Report*.

W. B. MUNRO.

URBAN POPULATION. In the United States this term is applied to the inhabitants of units of local governments of 2500 inhabitants or more; formerly the term applied to municipalities of 8,000 or more. See **CITIES, CLASSIFICATION OF; POPULATION OF THE UNITED STATES.**

A. B. H.

URUGUAY. Uruguay, a buffer region between Spain and Portugal, was finally attached to the viceroyalty of La Plata. Independence from Spain was declared coincident with that of Argentina (*see*), but national independence in 1825. The country lies between latitude 30° and 35° south, and longitude 53° and 58° 30' west (Greenwich), embracing an area of 72,210 square miles with a population of 1,112,000, over 15 per square mile. The present (1910) constitution (slightly modified since) was adopted in 1830, and provides for a senate and a chamber of deputies. Senators are elected indirectly, one for each department, for six-year terms, renewed by thirds every two years. Deputies are elected directly by popular vote, one for every 3,000 inhabitants, for three-year terms. The president and vice-president are chosen by Congress for a term of four years, and are not immediately eligible for reelection; the cabinet is composed of six ministers: interior; foreign affairs and worship; public works; industries, labor and public instruction; war and marine; finance. They are appointed by the president. The judicial branch is a supreme court elected by congress. Politically the republic is divided into 19 departments, governed by a *jefe politico* appointed by the president. The capital is Montevideo. State religion is Roman Catholic. **Reference:** J. I. Rodriguez, *Am. Constitutions* (1905), II, 157-202; Pan American Union, *Publications*.

A. H.

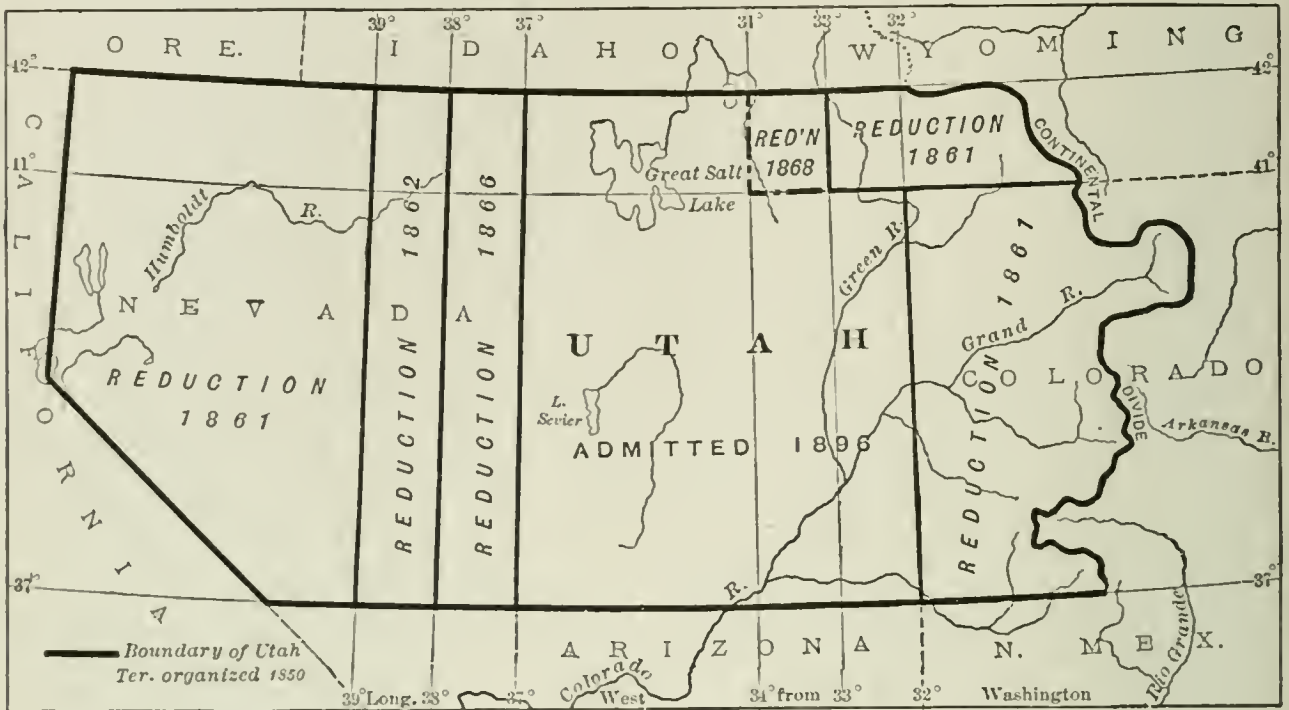
UTAH. Settlement.—Utah was settled by a band of Mormon colonists in July, 1847. The valley of the Great Salt Lake became their first home, and here was begun the building of a united economic, social, and political organization, which in time produced a prosperous state. The early settlers of Utah were a distinct type of economic society, and accepted as right a prophet-teacher and leader,

UTAH

who to them had divine authority. The type of society was the authoritative.

The valley of the Great Salt Lake had a reluctant soil. The rainfall was limited, averaging about ten inches, and the land was bleak and sterile. Nevertheless, the people went immediately to work and agriculture became the principle pursuit, and the desert waste was transformed into beautiful private gardens. From the first, the tilling of the soil

and its powers be divided into three branches—legislative, judicial, and executive. Each member of the legislature was to take the oath to support the Constitution of the United States, and that of the state of Deseret. The executive power was vested in a governor, a lieutenant governor, a secretary, an auditor, and treasurer. The judiciary consisted of a supreme court, and such other courts as the legislature might provide.



BOUNDARIES OF THE STATE OF UTAH, SHOWING TERRITORIAL CHANGES

has been the keynote to Utah's development, and as coal and iron have been the natural staple products of America, so have they been in Utah. American ingenuity was brought into play, and we find nail, furnace, clothing, and leather factories as early as 1850. The people were forced at first to cope with very primitive conditions, and beginning as they did, the industrial history of Utah is most phenomenal.

Government before 1847.—Before the treaty of Guadalupe Hidalgo in 1848, Utah belonged to Mexico. There are, however, no records to show that any Spanish colonists were permanently established within the present confines of the state.

Early Government.—As early as the year 1849, Utah was organized into a provisional government with all the order of legislative, judicial, executive offices regularly filled under a constitution.

The general assembly of the state of Deseret (*see*) held its first session on July 2, 1849, at Salt Lake City. During the month, it was decided to petition Congress for admittance into the Union, and a memorial signed by a large number of citizens was sent to Congress.

The provisional government provided that the seat of government be at Salt Lake City,

Utah Territory Organized by Congress.—In September, 1850, Millard Fillmore, President of the United States, signed the act creating the territory of Utah. Brigham Young was appointed governor. In April, 1851, the general assembly of the provisional government was dissolved, and the state of Deseret was merged into the territory of Utah. The legislative assembly of the provisional government passed some notable acts, among which were bills for the building and improvement of roads and bridges, and the establishment of the first university west of the Missouri River.

Early Town Government.—Brigham Young directed the settlement of Salt Lake City, and practically all of the cities of Utah. Being of New England descent, he understood the English form of village government. Every town was systematically laid out, with broad streets and walks, and on each side a stream of water and an avenue of trees. This system implied an abundance of land, and the head of the family owned his home. There was no social distinction, but a complete political, social, and religious democracy, and universality of manual labor. The meeting house was built in the centre of the town, which was used for meetings on Sunday, and during the week, for the village school, and for such other

meetings as might be called by the chief officer of the town. Here all the people met at times in town meeting to discuss affairs pertaining to the community—the moral, the agricultural, the political, and the social conditions. These villages have grown into the cities of Utah. They were distinctly of the old Teutonic type, and, outside of New England, were possibly the most distinct type ever developed in America.

State Constitution.—Utah was admitted to the Union January, 1896. Its state constitution provides for all the departments of government which are customary in our national Constitution. It distinctly says that “the state of Utah is an inseparable part of the Federal Union”—that perfect toleration of religious sentiment is guaranteed; polygamous or plural marriages are forever prohibited (*see STATES, ADMISSION OF*). A public school system is provided with the state university at its head. Charitable institutions are well supported. The elective state officers are a governor, secretary of state, auditor, treasurer, attorney general, superintendent of public instruction, seven district judges, and three members of the supreme bench. The constitution expressly declares that the “rights of citizens” of the state “to vote and hold office shall not be denied or abridged on account of sex.”

Political Parties.—In the early days of Utah, there arose two political parties, which became known as the People’s and the Liberal parties respectively. As Utah was settled by a religious band of people, thoroughly united in religion and industry, they naturally became united politically, especially when there came among them those who opposed their economic and religious institutions. The people united locally in their town government, naturally became united in their territorial politics. There was, however, strict political and religious tolerance in Utah from the first. In 1870 there was organized in Salt Lake City the Liberal party, composed largely of those people who opposed the religious tenets of the

Mormons. Until 1890, these two political parties waged many a battle, but after the declaration by the Mormon Church in 1890 that polygamy should be abandoned as a religious tenet, the people of the state divided on national party lines, and both the Republican and the Democratic parties have at times been successful at the polls.

Education.—Utah’s public school system dates back to 1847, when the first school was opened in Salt Lake City. The first legislative act passed by the first legislature of the territory was for the establishment and building of roads and bridges; the second act was for the maintenance of schools. School houses were invariably among the first structures in every town. A striking evidence of the growth of the school system since the admission of Utah as a state is shown by the following figures: 1896, expenditure for public schools, \$909,955.35. In 1909–10, the total expenditure was \$3,182,874.29, or \$30.34 per capita. There are more than 104,000 children within school age in Utah. The University of Utah is at the head of the public school system of the state. There are, in addition, the Agricultural College and the Brigham Young University at Provo. Besides the state schools, there are a number of sectarian institutions, all doing work of advanced grade.

See CONSTITUTIONS, STATE, CHARACTERISTICS OF; STATE GOVERNMENTS, CHARACTERISTICS OF.

References: O. F. Whitney, *Hist. of Utah* (1892–1904); H. H. Baneroff, *Hist. of Utah* (1889); L. E. Young, *Hist. of Education in Utah* (1913); J. Tullidge, *Hist. of Salt Lake City* (1886); F. N. Thorpe, *Federal and State Constitutions* (1909), VI, 3687–3735.

LEVI E. YOUNG.

UTI POSSIDETIS. A phrase used in international law to indicate that the parties shall retain possession of that which has been reduced to their possession during the war. **See CONQUEST, RIGHT OF; STATUS QUO ANTE BELLUM; TERRITORY IN INTERNATIONAL LAW.**
G. G. W.

V

VACANCIES IN OFFICE. A vacancy in a public office may be brought about in any one of the following ways: (1) by refusal to accept office; (2) by removal by competent authority; (3) by impeachment; (4) by resignation; (5) by death; (6) by expiration of the term of office. The vacancy thus created is filled in various ways according to the laws of the state and the nature of the case. For vacancies in the United States Senate the Federal Constitution provided, up to 1913, that "if vacancies happen by resignation, or otherwise, during the recess of the legislature of a state, the executive thereof may make temporary appointments until the next meeting of the legislature, which shall then fill such vacancy" (Art. I, Sec. iii, ¶ 2). This clearly meant that the governor could not appoint if the legislature was in session when the vacancy occurred; but if the legislature adjourned without an election, did the vacancy then exist? Could the governor then appoint? The Senate has at different times, taken opposite ground on the reception of persons so appointed, but in 1900 refused to seat Matthew Quay of Pennsylvania on such an appointment. Under the Seventeenth Amendment (*see*) the governor can appoint to a vacancy only in such states as may by statute have so provided.

Vacancies in the House of Representatives must be filled by special election, which is the usual practise for vacancies in state legislatures (Art. I, Sec. ii, ¶ 4). To avoid a hiatus the terms of some public officers are made for a fixed period "and until their successors shall be appointed." The President has authority (Art. II, Sec. ii, ¶ 3) to fill up all vacancies that may happen during the recess of the Senate, by granting commissions which shall expire at the end of their next session. In a few cases in city governments, so many vacancies have been made by simultaneous resignation, that the city council no longer had a quorum and could do no business.

See **APPOINTMENTS TO OFFICE; EMPLOYEES OF GOVERNMENT; REMOVAL OF PUBLIC OFFICIALS.**

Reference: C. R. Fish, *Civil Service and the Patronage* (1905). A. B. H.

VACCINATION, COMPULSORY. During the Civil War orders were obtained from commanders in some cases directing the vaccination of an entire command. In 1828 the

state of Connecticut enacted that children attending the public schools should present a certificate of vaccination, and this is the practice in several of the states. There have been numerous cases of refusal, and suits by irate parents. The principle that the state may compel health precautions to be taken is widely recognized; and the resistance to vaccination is usually based upon an argument that the method does not accomplish the end proposed. See **CONTAGIOUS DISEASES; HEALTH, PUBLIC REGULATION OF.** Reference: J. A. Fairlie, *Municipal Administration* (1908), 126. A. B. H.

VAGRANCY. Definition.—A vagrant or tramp is "an able-bodied man without any visible means of support" and without fixed abode. In this last respect he differs from the typical beggar (*see*). The essential characteristic of the vagrant is that of "work-shyness" or voluntary idleness.

Significance.—The wide extent of vagrancy and its cost to society are appalling. It is estimated that there are a half a million tramps in the United States, which cost the railroads alone \$25,000,000 a year; in the state of New York not less than \$2,000,000. It is not surprising that society early took steps to eradicate the evil by repressive legislation with severe penalties.

Legal Status.—Statutes against vagrancy make possible the punishment of acts which in themselves appear innocent, such as loitering about public places, when done by persons of a certain description. Thus Freund points out in his *Police Power* that in New York:

The charge of vagrancy serves simply to justify an arrest made for other purposes for which, however, an arrest cannot legally be made. The practice of our police authorities thus sanctions a form of preventive arrest which has no warrant in our law, but which is recognized in Germany as within the inherent powers of the police. This mere precautionary arrest is lawful under our law only in order to prevent an offense which is imminent or in course of being committed.

The criminality of vagrancy rests upon "a combination of three circumstances: the absence of lawful means of support, the neglect to seek employment, and the offensive exhibition of such condition." The purpose of vagrancy statutes is to protect the public from the expense of supporting the vagrant as well as from his disorder. Vagrancy is made a penal offense by state statutes. In addition, charters of cities often confer power to restrain and punish vagrancy.

Difficulties.—Legislation has not checked vagrancy in the United States. The chief reason for this lack of progress lies in the fact that vagrancy is a national problem, and the unit of control is the state. While some states, notably Massachusetts, have laws well calculated to make it disagreeable to be a tramp, this type of legislation and enforcement must become general among the states before a complete solution is possible.

Popular sympathy exists for a man who represents himself as out of work, without funds and seeking employment. The occasional earnest but penniless seeker for work for whom provision is necessary, still makes the presence of thousands of vagrant parasites possible. It is a matter of common knowledge that, save in times of industrial depression, the great body of vagrants wandering over the country are voluntarily idle. Public opinion must discountenance the feeding of vagrants at back doors, and discourage the so-called "missions" which lodge tramps. It has been urged that such places be brought under the police ordinances which apply to the better class of lodgings, and regulate air space, light and sanitary provisions, bathing regulations, etc.

A further cause of failure is in part due to the overcrowded conditions of jails in many places, particularly in winter. Persons committed for slight offenses, among which vagrancy is classed, are often turned loose in order to leave room for those whose offenses are more serious. Tramps frequently court short sentences and welcome commitment to some penal institution where they will be cared for during the season of cold weather, and these serve as a contributory cause; also the relative ease of travel on freight cars. This can be met in part by the legislative enactment of severe penalties for illegally riding on cars, and in part by a system of efficient railroad policing.

Remedies.—In view of the fact that the one thing which the professional vagrant will not face is the requirement of hard work, it is coming to be felt that the overseers of the poor in every town should provide decent accommodations of food and lodging for wayfarers, but in return therefor should demand work; and that refusal on the part of wayfarers to comply with this demand should constitute *prima facie* evidence of tramping. Wayfarers should not be lodged in police stations. All persons convicted of vagrancy should receive indeterminate sentences of a maximum of eighteen months and be sent to a farm colony for "detention, humane discipline, instruction and reformation."

The causes for the creation of a vagrant class differ from the causes which explain its persistence. They are many and deep rooted. In general they are the same as the causes of poverty plus, often, the strong desire to wander.

In the opinion of an expert on the subject, the "most effective check on vagrancy is the proper kind of education of the young during the years from ten to twenty. The schools, the home and the church must all do their part in preparing youth for a reasonable, honest and efficient life. Child labor, illness, mental defectiveness, congestion of population, truancy, orphanage, inefficiency, low wages, overwork, industrial accidents, diseases of occupation, the temptations of crime, seasonal and irregular trades; all these causes and many more operate to produce the youthful tramp."

See BEGGARS; CHARITIES, ASSOCIATED; CHARITIES, PUBLIC AGENCIES FOR; LODGING HOUSES, PUBLIC; POVERTY AND POOR RELIEF; SOCIAL REFORM PROBLEMS.

References: O. F. Lewis, *Tramp Problem* (1912), 217-227, *Vagrancy in the U. S.* (1907); Mass. Board to Investigate the Subject of the Unemployed, "Wayfarers and Tramps" in *Mass. House Doc., No. 50* (1895), Pt. II; E. Kelly, *Elimination of the Tramp* (1908); W. H. Dawson, *Vagrancy Problem* (1910); Michigan State Library Reference Dept., *Laws of the Various States Relating to Vagrancy* (1910); N. Y. School of Philanthropy, "Farm Colonies" in *Library Bulletin*, No. 1 (1911). S. McC. LINDSAY.

VALLANDIGHAM, CLEMENT L. Clement L. Vallandigham (1820-1871) of Ohio, was already widely known as an outspoken state rights Democrat when, in 1858, he was elected to the national House of Representatives. He believed that the South had been wronged and that the newly organized Republican party was founded upon the iniquitous principle of sectional domination. During the earlier months of the Civil War his unsparing attacks upon the Lincoln administration and his avowed leadership of the elements by whom the war was opposed led to repeated efforts to accomplish his expulsion from the House. In 1863 he was arrested, tried by a military commission, and sentenced to imprisonment. The sentence was commuted by Lincoln to banishment and Vallandigham, as a kind of practical joke, was transported to Confederate soil, whence he made his way to Canada. In 1864 he returned to Ohio, was an unsuccessful candidate for governor and during the ensuing six years his influence within the ranks of the Democratic party, state and national, was of first rate importance. He wrote a portion of the national platform of 1864, assisted in the nomination of McClellan, and led his party in denunciation of the radical Republican programme of reconstruction. Near the end of his life, however, he counseled the Democrats to abandon the reconstruction issue and to take their stand upon broader and more patriotic issues. At all stages of his career he advocated the maintenance of the Union. He was opposed merely to what he

regarded as the unwarrantable attempt of one section to dictate to another what the nature of its institutions should be.

References: J. L. Vallandigham, *Life of Clement L. Vallandigham* (1872); J. Walter, Ed., *Record of Hon. C. L. Vallandigham* (1883); J. F. Rhodes, *Hist. of the U. S.* (1893-1906), IV, ch. xix; J. G. Nicolay and J. Hay, *Abraham Lincoln* (1890), VII, ch. xii. F. A. Ogg.

VALUATION OF IMPORTED GOODS. Values of dutiable goods imported and subject to customs duties are ascertained and recorded by appraisers. The Treasury department also keeps a record of the value of all merchandise imported, whether free or dutiable. This is derived from the manifests of ships, and is published in the statistical reports of the government. D. R. D.

VALUATION OF PUBLIC UTILITIES. Official valuations of public utilities may be required for the following public purposes: (1) taxation; (2) accounting and capitalization; (3) rate-making; (4) public purchase. Methods vary with their purpose. Valuations for tax assessment and capitalization are based on statutory requirements; valuations for regulation of rates and for condemnation of property must be based on principles of just compensation as worked out by the courts. Such principles have as yet been but vaguely defined. In the leading case of *Smyth vs. Ames* (169 U. S. 466, 1898), Justice Harlan said:

We hold, however, that the basis of all calculations as to reasonableness of rates . . . must be the fair value of the property being used by it for the convenience of the public.

As to how this fair value is to be estimated, Justice Harlan merely indicates that the original cost of construction, the cost of subsequent betterments and additions, the cost of reproduction, the par and market value of stocks and bonds, the probable earning capacity of the property and perhaps other elements should be taken into consideration. In two recent cases decided by the United States Supreme Court, almost the only basis or element of value considered has been that of cost of reproduction less existing depreciation (*Willecox vs. Consolidated Gas Company*, 212 U. S. 19, 1909 and *Knoxville vs. Water Company*, 212 U. S. 1, 1909). It is probably fair to say, however, that there is yet no agreement or authoritative determination as to what constitutes "fair value." Among the various standards and combinations of standards tried or advocated are:

(1) **Market Value or Commercial Value as a Going Concern.**—The Washington Railroad Commission has used this as its final standard, though it has considered cost of reproduction, original cost and many other factors as hav-

ing a probative use in the determination of market value. The Commission holds, however, that market value must be based on earnings under reasonable rates of charge. Thus an equation is presented with two unknown quantities. How this difficulty can be avoided has not been fully explained.

(2) **Actual Cost or the Actual Unimpaired Investment.**—This includes the original construction cost plus expenditures for additions and betterments but excluding all expenditures for renewals, replacements and for all other purposes not properly chargeable to capital under correct accounting principles.

(3) **Cost of Reproduction.**—This is the cost to reproduce the property at present prices of land, labor and materials. The estimate of cost of reproduction may be based on: (1) the cost of an exact duplication of the present plant; (2) the cost of an equally efficient plant.

Prices of labor and materials may have gone up or down, thus resulting in an advantage under the reproduction cost method either to the company or to the public. As to land and certain other factors under the reproduction theory, the advantage is all one-sided; for through a considerable period of years land values almost always show an advance and almost never a decline. The advance is sometimes enormous and represents a large portion of the total reproduction cost of the property of certain utilities. There is no corresponding offset due to a general decline in the price of any other element entering into the total cost.

See ASSESSMENT OF TAXES; FRANCHISE TAX; MUNICIPAL OWNERSHIP; PUBLIC SERVICE COMMISSIONS; PUBLIC SERVICE CORPORATIONS; RAILROADS, PHYSICAL VALUATION OF.

References: J. W. Alvord, "Notes on Going Value and Methods for its Computation" in *Am. Water Works Assoc., Proceedings*, 1909, 184-279; L. Metcalf and J. W. Alvord, "Going Value of Water Works" in *Am. Society of Civil Engineers, Transactions*, LXXIII (1911), 326-391; H. E. Riggs, "Valuation of Public Service Corporation Property" in *Am. Society of Civil Engineers, Proceedings* (Nov., 1910-Feb., 1911); R. H. Whitten, *Valuation of Public Service Corporations* (1912).

ROBERT M. WHITTEN.

VALUATION OF RAILROADS. See RAILROADS, PHYSICAL VALUATION OF.

VALUATION OF TAXABLE PROPERTY. See APPRAISAL OF IMPORTED GOODS FOR DUTIES; ASSESSMENT OF TAXES.

VALUATIONS, ASSESSED. See ASSESSED VALUATIONS, COMPARATIVE.

VALUE. The value of any unit of a commodity in a given market is its power to command other desirable things in exchange.

This value arises because the commodity is both useful and scarce—a conjuncture of qualities which causes men to desire it. Things available in superabundance—ordinary air, water—have no value, though they be useful or even necessary. Only when the supply fails to satisfy every want do men become willing to give other things in exchange for units of them. In our economic system, where money serves as both a common measure of value and the medium of exchange, the value of any unit of commodity at the time and place is its price. But the economist is concerned usually not so much with the particular (market) price resulting from temporary causes as with the (normal) price which in the long run induces relatively stable equilibrium between supply and demand.

Man naturally satisfies his desires according to the order of preference. Beginning with the commodity most urgently desired, he takes successive units of it until, in the progress towards satiety, he reaches a point where he rejects an additional unit of the same commodity and takes the first unit of another commodity. Since all normal men follow this order of preference in satisfying their desires for all commodities, the choice of any commodity—*c. g.*, apples—ceases just where the least eager purchaser shifts his preference to another commodity. The last unit taken by him fixes the quantity required (demand) in that market. The value or price of this unit is measured by a mutual balancing of desires between him and other persons: he sets against this last unit the things which he must surrender or forego to obtain it; they set against other things the unit of commodity supplied in exchange. This balancing of desires may occur under two radically different sets of conditions (monopolies excepted). (1) Where conditions do not permit any addition to the existing stock of the commodity, the temporary or market price of any unit is determined by the relative eagerness of buyers and sellers in adjusting supply and demand. (2) Where conditions permit renewals of supply, the resulting normal value or price of any unit is determined by the cost involved in producing that unit of the required supply which is produced at greatest sacrifice—sacrifice meaning costs in labor, capital and waiting. Obviously, equal units of a commodity of uniform grade have but one price in the same market. The price of each unit must be not less than the (future) cost of that which costs most: because men will not perpetually produce units which entail loss. The most costly unit of the required supply therefore fixes a minimum limit for normal value or price. Normally producers supply all units desired at or above this price (effective demand), which therefore equalizes supply and demand. The multiplex influences which affect both market and normal value must be sought in the standard treatises.

See COST; DISTRIBUTION; LABOR; PROFITS. References: A. Marshall, *Principles of Economics* (6th ed., 1910), III, V, App. I; T. N. Carver, *Distribution of Wealth* (1911), ch. i; W. Smart, *Intro. to the Theory of Value, on the Lines of Menger, Wieser and Boehm-Bawerk* (1891). E. H. VICKERS.

VAN BUREN, MARTIN. Martin Van Buren (1782–1862), eighth President of the United States, was born at Kinderhook, N. Y., December 5, 1782. In 1803 he was admitted to the bar, and from 1808 to 1813 was surrogate of Columbia county. He affiliated politically with the Clinton faction of the Republicans, and from 1813 to 1820 sat in the state senate, serving from 1815 to 1819 as attorney general also. By 1821 he had separated from the Clintonians, and was elected by the “Buck-tails” United States Senator. He was a prominent member of the “Albany regency,” just then being formed. He was one of the leading opponents of J. Q. Adams and a champion of Jackson; and in 1829 resigned the office of governor of New York, to which he had been elected in 1828, and which he held from January 1 to March 12, to become Secretary of State. With a view to the vice-presidency, he resigned his secretaryship in 1831, and was presently appointed minister to England; but the nomination was rejected by the Senate. From 1833 to 1837 he was Vice-President, and in 1836 was elected President. He was renominated by the Democrats in 1840, but defeated. He was a candidate for nomination in 1844, but was rejected because of his opposition to the annexation of Texas. In 1848 he was the candidate of the Free-Soil party, but received no electoral votes. He died at Kinderhook, July 24, 1862. See DEMOCRATIC PARTY; PRESIDENTIAL ELECTIONS. References: G. Bancroft, *Martin Van Buren* (1889); E. M. Shepard, *Martin Van Buren* (1899); E. H. West, *Calendar of the Papers of Martin Van Buren* (1910); J. D. Richardson, *Messages and Papers of the Presidents* (1896), III. W. MACD.

VATTEL, EMMERICH Von. See POLITICAL THEORIES OF CONTINENTAL PUBLICISTS.

VENEZUELA. Venezuela, a republic, called officially the United States of Venezuela, is a federal union of states, comparable in that regard to the United States of North America, to Mexico, to Brazil, and to Argentina. In Venezuela are twenty states politically equal and self-governing, two territories, and a federal district (which, however, is not a contiguous area, but comprises some isolated parishes), which are administered by a governor appointed by the president. Venezuela touches Colombia, Brazil and British Guiana. Its coast was sighted by Columbus on his third voyage, the name, meaning little Venice, being

given because of the singular appearance of the lake villages where the present city of Maracaibo is situated. At first it was the Province of Venezuela, the coast line being what is now called the Spanish Main, harried by British, Dutch and French buccaneers. In 1718 the vice-royalty of New Granada was created, and Venezuela became subject to the viceroy at Bogotá. In 1810 the revolt against Spain was seriously organized and finally carried to a successful conclusion under Bolivar who was a native of Caracas. In 1819 the country became part of Greater Colombia, but that federation was dissolved and absolute independence was finally secured in the year 1830.

Venezuela has an area of 393,976 square miles and a population (estimated in 1910) of 2,685,606. The latest constitution is that of August 5, 1909, and provides for legislative, executive and judicial branches of the government. The legislative authority is bicameral, resting in a congress consisting of a senate and a chamber of deputies; the senate has 40 members, two from each state, elected by the state legislatures for four year terms; the deputies—numbering one for each 35,000 inhabitants—are elected by popular vote for four year terms, the suffrage being possessed by all citizens 21 years old. Congress meets annually on April 19 at the capital, for a session of 70 days, but may be convened in extra session. The executive authority is a president, elected for a term (not immediately recurring) of four years; there is no vice-president, the presiding officer of the council of government taking the president's place in case of need. This council consists of ten members elected by congress for a term of four years. The president appoints a Cabinet of seven ministers: interior relations; foreign relations; finance and public credit; war and marine; promotion; public works; public instruction. The judicial authority lies in the supreme court, courts of appeal and minor courts. Supreme court judges are seven, elected by congress for four years. The standing army of the country has about 9,000 men, and the reserves are estimated at 100,000. The navy consists of 6 vessels with about 1,000 men. The telegraph and postal service is owned and operated by the government (minister of promotion), and to some extent the telephone service is nationalized, although private lines are allowed. The capital is Caracas. State religion is Roman Catholic.

References: J. I. Rodriguez, *Am. Constitutions* (1905), I, 191-232; Pan American Union, *Bulletin* (monthly) and other publications.

ALBERT HALE.

VENUE. In criminal procedure the venue is the place, neighborhood, or county in which the crime is charged to have been committed, which must be taken into account in determin-

ing in what court the prosecution should be conducted. In civil procedure the venue has reference to the place at which an act was done, or a transaction occurred, or to the local jurisdiction of the court in which such act or transaction is inquired into as a basis for a cause of action. In both criminal and civil proceedings there are provisions for the change of venue from the jurisdiction of one court to that of another on account of some privilege of or necessity for having the case tried in the court of a different local jurisdiction. The Sixth Amendment of the Federal Constitution provides that:

In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law.

See LAW, CRIMINAL; TRIALS. E. McC.

VERMONT. History.—Vermont declared herself a free and independent state on March 17, 1777, and remained an independent sovereignty for thirteen years, until admitted to the Union March 4, 1791. The seat of government is Montpelier. The state has been governed under constitutions adopted in 1777, 1786 and 1793, with twenty-eight amendments, of which the first was adopted in 1828, the second to the thirteenth in 1836, the fourteenth to the twenty-third in 1850, the twenty-fourth to the twenty-sixth in 1870, and the twenty-seventh and twenty-eighth in 1883. The constitutional conventions of 1786 and 1793 instead of amending the original constitution adopted July 2, 1777, incorporated the changes into the original text and promulgated the entire constitution. As these were adopted Vermont has had three constitutions.

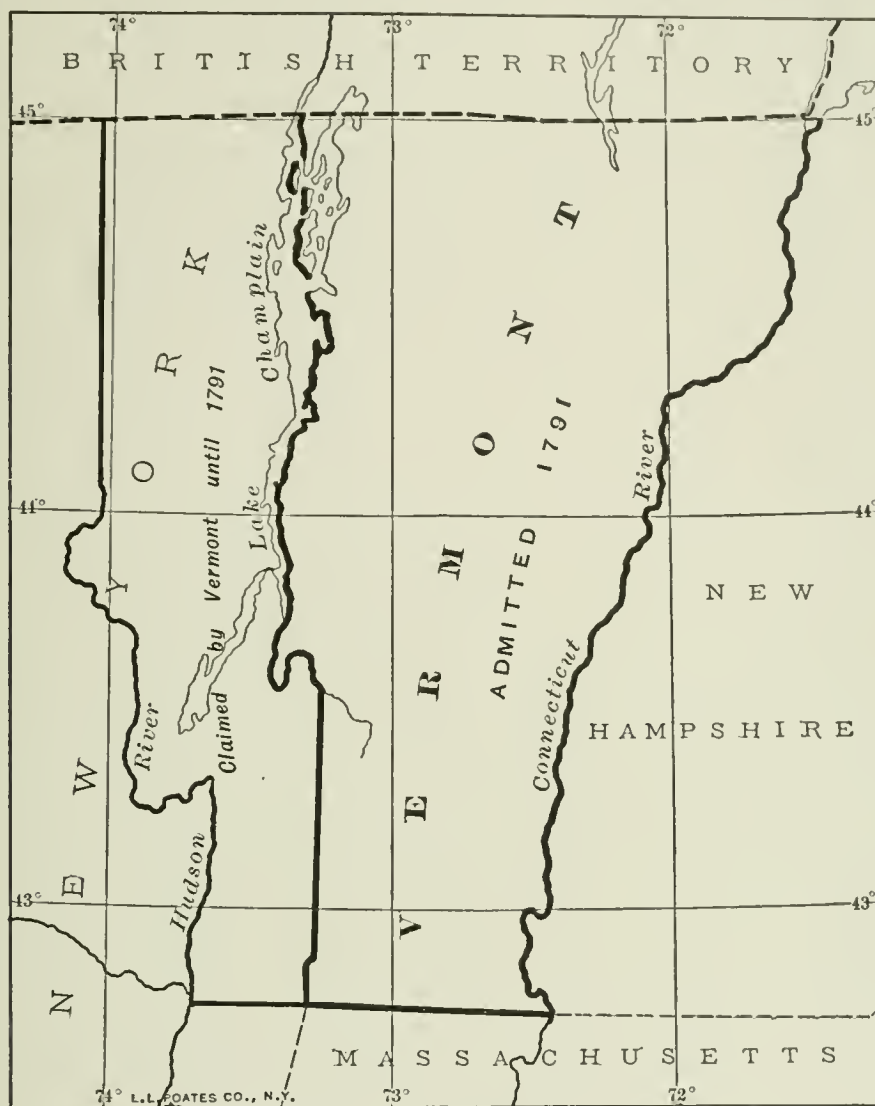
General Constitutional Provisions.—Every tenth year after 1880 the senate may propose amendments to the constitution. If an amendment receives a two-thirds vote in the senate and a majority vote of the next following general assembly (senate and house of representatives), it is submitted to a vote of the people, when a majority vote determines its final acceptance or rejection. All citizens of the United States residing in Vermont are citizens of the state. The right of suffrage is confined by the constitution to male citizens, twenty-one or more years of age, who have resided in the state one year. Women taxpayers have a right to vote in all elections relating to schools and school officers in city, town and graded school districts and also the right to be elected to any local school position or to the office of town clerk. The Australian ballot system was adopted in 1890. Elections for state officers, for representatives in Congress and for county officers are held biennially in September instead of in November, as in nearly all of the other states. The results in elections in Vermont in presidential years have, there-

fore, had a special significance in that the country at large has been interested in them as a possible indication of the trend of the national elections. The state being strongly Republican, the size of the majority has been looked to as the barometer.

Executive and Administrative Officers.—The administrative officers of the commonwealth, elected biennially by the people, are governor, lieutenant governor, secretary of state, state treasurer, state auditor and attorney general. Congressmen are elected in the two congression-

treason. He has a limited veto power which may be overridden by a majority vote in each House.

Legislative.—The legislative department of the government consists of a general assembly composed of a senate and house of representatives. The senate is made up of thirty members apportioned among the fourteen counties according to population but with the proviso that each county shall have at least one senator. The house of representatives is made up of two hundred and forty-six members, one



BOUNDARIES OF THE STATE OF VERMONT

al districts. The officers elected by the general assembly are United States Senators, one chief justice and four associate justices of the supreme court, six superior judges, superintendent of education, sergeant-at-arms, adjutant and inspector general, judge advocate general and judges of the court of claims. The officers appointed by the governor and confirmed by the senate are state highway commissioner, commissioner of state taxes, state geologist, a commissioner of agriculture, a bank examiner, a fish and game commissioner and various boards and commissions. The governor has a limited power of appointment and may grant pardons, except for impeachment, murder and

from each city and town. The two houses have equal powers in legislation except that all revenue measures must originate in the house of representatives. The house of representatives was created by the constitution of 1777 and the senate by the third amendment to the constitution adopted in 1836. In addition to its regular legislative functions, the senate is empowered to propose amendments to the constitution decennially, to try cases of impeachment and to confirm certain appointments made by the governor.

Judicial.—The judicial department of the government is made up of a supreme court, county courts, courts of chancery, probate

courts, court of claims, justice courts and municipal courts. The supreme court is composed of one chief justice and four associate justices. It is the highest court in the state and is a court of law and equity. Five general terms are held each year. There is no superior court but there are six superior judges elected by the legislature, the first elected being designated as chief judge. A superior judge and two assistant judges elected by the voters in each county constitute the county court. The designation of the presiding judge for the different counties is left to the judges themselves, although the law prescribes rotation so far as practicable. The county courts have original jurisdiction in all civil and criminal cases within their respective counties, except such as are by law made cognizable by justice courts, and may render judgment thereon or award sentence according to law and may have appellate jurisdiction of cases, civil and criminal appealable to such court.

Local Administration.—For the administration of local affairs the state is divided into fourteen counties, six cities and two hundred and forty townships. There is no special board of commissioners or supervisors in the different counties, as in most of the other states, the county authority in Vermont being the assistant judges of the county court. The assistant judges, sheriff and state's attorney are elected biennially by popular vote. The county treasurer is chosen by the assistant judges. The important town officers are moderator, board of selectmen, clerk, treasurer, assessors and school directors. The business affairs of the cities are handled in accordance with their charter provisions and their administrative officers are a mayor, board of aldermen, board of school commissioners, clerk, treasurer, sheriff or constable, and various minor officers.

Recent Important Political Events.—Ten proposals of amendment to the constitution were made by the senate in 1910, nine of which were twice approved by the general assembly, in accordance with the provisions of the constitution. The amendment which failed of adoption was the recommendation to remove from the constitution the "ten year time lock." The nine amendments accepted are briefly summarized as follows: (1) strengthening the veto power of the governor by requiring a two-thirds, instead of a majority vote to pass a bill over his objection; (2) changing the time of holding biennial elections from September to November, beginning in 1914, and the time of convening the biennial sessions of the legislature from October to January, beginning in 1915; (3) requiring the printing of the yeas and nays of senate and house on any question, when demanded, immediately after the close of a session. (4) removing the legislature's present power to commute the death penalty of condemned murderers to life

imprisonment and vesting it in the governor; (5) making members of the legislature during their terms of office ineligible to any office of profit, the election to which is vested in the general assembly; (6) repealing the general assembly's present power to grant special charters and obliging new corporations to organize under the general law; (7) changing the designation of judges of the Supreme Court to justices; (8) enabling the general assembly to pass employees compensatory acts; (9) providing for the revision of the constitution by the judges of the Supreme Court to bring it up to date by including all amendments thereto and excluding all sections, clauses and words not in force. All of these amendments except number 5 were adopted by the voters in March, 1913, and ratified by the governor April 8, 1913.

The state is strongly Republican. At the last election (1912) the tickets in the field were Republican, Democratic, Progressive, Prohibitionist and Socialist. Owing to the Progressive split, no candidate received a majority, but the Republican nominee for governor was chosen by the legislature. Since 1852 the electoral votes of Vermont have been given to Republican candidates for President and Vice-president. Vermont was one of the two states which cast electoral votes for the Republican candidate in 1912. The state has four electoral votes.

The chief political issues before the people during the past decade, as indicated by the platforms of the two parties, can be briefly summarized as follows: Reduction of state taxes; better regulation and just taxation of corporations; retention or rejection of present local option law in control of the liquor traffic, which was adopted in 1902; good roads; primary caucus laws; reorganization of the judiciary effected in 1906 by the creation of superior court judges; change in the present method of representation by towns in the house of representatives; repeal of the capital punishment law; the adoption of the proposed amendments to the constitution; a state tax commission; employers' liability laws and workingmen's compensatory acts; conservation of forests and natural resources; larger appropriations for educational purposes.

See CONSTITUTIONS, STATE; STATE GOVERNMENTS, CHARACTERISTICS OF.

References: R. E. Robinson, *Vermont* (1892); S. Williams, *Natural and Civil Hist. of Vermont* (2d ed., 1809); F. N. Thorpe, *Federal and State Constitutions* (1909), VI. 3737-3781; W. S. Slade, Jr., *Slade's Vermont State Papers* (1823); Vermont Historical Society, *Collections, 1870-1871, Proceedings, 1898*; Conant and Stone, *Geographical Hist. of Vermont* (1907). EDWARD D. FIELD.

VESSELS. Vessels are usually classed as private and public. Private vessels are in

general those which belong to the citizens of a state and public are those which belong to the state, nearly all of them ships of war. When private vessels are engaged in the service of the state they may be assimilated to public vessels. Vessels when outside the territorial limits of other states are under the jurisdiction of the state whose flag they fly.

Public vessels of one state within the territorial limits of another state in time of peace are usually granted the widest possible immunities from local jurisdiction, though they may be subject to local harbor, sanitary and like regulations. The officers and crews of public vessels when engaged in official duties are also granted so far as possible the rights of extra-territoriality.

Private vessels of a state within the territorial limits of another state in time of peace are usually subject to the local jurisdiction except in regard to matters which concern the internal economy of the vessels. The amount of jurisdiction assumed by different states over private vessels in time of peace varies. Some lines of trade may be closed to foreign vessels and certain ports may be similarly closed.

In time of war and when outside of neutral jurisdiction, the public vessels of one belligerent are in general liable to capture by the other belligerent. Vessels engaged in hospital, scientific, exploring, cartel and other lines of work having no relation to the hostilities, and for the good of all mankind, are, when innocently employed, exempt.

In time of war, private vessels of one belligerent are, when outside of neutral jurisdiction in general, liable to capture by the other belligerent. Private vessels engaged in hospital, scientific, exploration or cartel service are exempt. Small coast fishing vessels, and small boats engaged in local trade are also exempt by conventional agreement, especially by the Hague Convention of 1907 with regard to the Exercise of the Right of Capture in Naval War. It is also customary to allow a certain number of days of grace for the departure of private belligerent vessels which may be within the ports of an enemy at the outbreak of war. The period of grace was somewhat defined in 1907 by a Hague Convention relative to the Status of Enemy Merchant Ships at the Outbreak of Hostilities.

In time of war public vessels within neutral jurisdiction are usually subject to special regulations in regard to length of sojourn, nature of supplies and other materials which may be taken on board, and acts which may be performed. The duration of sojourn in a neutral port is usually fixed at twenty-four hours, unless the stress of weather or other exceptional conditions make a longer stay imperative.

The departure of public vessels of one belligerent from a neutral port may be regulated

by the neutral when vessels of the other belligerent are within the neutral port. The simple passage through neutral waters is not regarded as necessarily subject to regulation.

Private vessels of one belligerent when within neutral limits are exempt from interference by the other belligerent.

Public vessels of a neutral may in time of war, be subject to special regulations when within the area of belligerent operations and when military necessity requires such action, as in case of exclusion from a blockaded port under certain circumstances.

Private vessels of a neutral in time of war are subject to visit and search when outside neutral jurisdiction (*see* RIGHT OF VISIT) and are liable to capture for violation of blockade, or unneutral service and to the penalties and delay consequent upon carriage of contraband.

See COMMERCE, INTERNATIONAL; EXTRA-TERRITORIALITY; MARITIME WAR; NAVIGATION, REGULATION OF; NEUTRAL TRADE, PRINCIPLES OF; SUBSIDIES TO SHIPPING; WATER BOUNDARIES.

References: H. Glass, *Marine Int. Law* (1895); J. B. Moore, *Digest of Int. Law* (1906), I, 930-939, II, 562-593, 1002-1123.

GEORGE G. WILSON.

VESSELS, ENTRY AND CLEARANCE OF.

Under the clearance law of April 22, 1902, the master of every vessel engaged in the foreign trade is required, before clearing, to deliver to the collector a sworn ship's manifest, and the consignors of the cargo must likewise deliver sworn shippers' manifests. Then, after seeing that the requirements as to fees, etc., and the inspection laws of the states are complied with, the collector issues a clearance for the vessel and its cargo, stating among other matters that the vessel has complied with the law. Vessels engaged in coastwise shipping need not take out clearance papers unless they clear from one district to another.

Upon entry from foreign ports the masters of American vessels are required to deposit with the port collector their register and the clearance granted at the foreign port of departure, to be retained until the vessel clears. Masters of foreign vessels are required to produce like documents to the collector and then deposit them with the foreign consul until they clear. American vessels are also required to produce letters or other documents showing the names of the vessel's owners. All vessels entering from foreign ports are obliged to produce their original manifests to the proper customs officials for inspection, and to furnish true copies of them. The entry and clearance fees collected are fixed by the laws of 1886, 1890, 1903 and 1910.

In compiling records of entrances and clearances, vessels are recorded as clearing to the first foreign port at which they discharge

cargo, unless the bulk of it is discharged at some other port; and as entering from the first foreign port at which they loaded cargo for the United States.

See MANIFESTS OF VESSELS: NAVIGATION, REGULATION OF; SHIPPING, REGULATION OF; TARIFF ADMINISTRATION.

References: U. S. Treasury Department, *Navigation Laws of the U. S.* (1911); E. R. Johnson, *Ocean and Water Transportation* (1905), ch. v. GROVER G. HUEBNER.

VESTED RIGHTS, PROTECTION OF. **Constitutional Guaranties.**—In addition to the general constitutional principles that legislation is in its nature prospective and that it is not within its province to deprive one person of property or its use in order to confer benefits upon another (see PROPERTY, RIGHTS OF; RETROSPECTIVE LEGISLATION) there are special guaranties in state constitutions and specifically in the Federal Constitution as against state as well as federal action for the protection of contract and property rights against legislative impairment (see CONTRACT, IMPAIRMENT OF; DUE PROCESS OF LAW). Those rights incident to the ownership of property or arising out of valid contracts which are thus protected against destruction or impairment by subsequent legislation are in a general sense, designated as "vested" rights, although such term is not used in the Federal Constitution nor generally in state constitutions.

Property Rights.—A full definition of vested rights in property would involve a definition of private property in its broad sense as recognized by our system of law, for constitutional provisions have reference to existing conditions, with a view of conserving on the one hand private rights and on the other hand the legitimate powers of government. No concise definition of private property is practicable. Vested rights in property may be explained, however, by illustrations. In the first place, a right to property may be absolute or limited, absolute if all the rights which may be had in property are combined in one person, limited or qualified if in the same property different persons have coordinate interests so that the rights of one are limited or qualified by those of the other. But a limited or qualified interest may be, nevertheless, a fully vested right although as to full enjoyment of such right there is an element of contingency. There may, therefore, be a vested right in a merely contingent estate. But so long as there is a mere prospect or expectancy of ownership or enjoyment which may or may not accrue by reason of contingencies not provided for, such prospect or expectancy is not a vested right. A wife's prospective dower interest in land belonging to her husband is dependent on the provision of law existing at the time of the husband's death and during his lifetime her

interest is as to its nature and extent only an expectancy, unless, indeed, by the existing law she is given some right of which no action or conduct on the part of her husband can deprive her. Likewise, under the rules of inheritance the children of the owner of property may have an expectancy that on the death of such owner they will inherit such interests in his property as the law may provide; but so long as this expectancy may be affected or defeated by the act of the owner it does not constitute a vested right in his property.

Contract Rights.—After a contract has been so made and executed as that the parties are bound by it, the rights of each, whether its terms and provisions have been fully executed as between them or have been executed as to one while they remain executory as to the other, or remain still executory as to both, are guaranteed as against impairment by legislation (see CONTRACT, IMPAIRMENT OF). But so far as the contract remains in whole or in part executory the limitation afforded by law for the protection and enforcement of the obligations of either party may be modified by general changes in the rules of evidence or procedure with this limitation only, that the changes must not be such as to substantially deprive either party of an adequate remedy. The principles applicable to changes in judicial procedure in case of contract rights are also applicable in a general way to like changes in relation to property rights, the general principle observed being that a right which has accrued and become vested cannot be substantially diminished or impaired by subsequent legislation. There is no vested right as to the forms and methods of future judicial proceedings, but the judgments of courts which fix and determine precedent and existing rights are not subject to future impairment by legislative action.

See CONTRACT, IMPAIRMENT OF; DUE PROCESS OF LAW; PROPERTY, RIGHTS OF; RETROSPECTIVE LEGISLATION.

References: T. M. Cooley, *Constitutional Limitations* (7th ed., 1903), 500-595; H. C. Black, *Constitutional Law* (3d ed., 1910), 596-606. EMLIN MCCLAIN.

VESTRY, IN LOCAL GOVERNMENT.

From early times in England the assembly of parishioners for deciding on matters of church business was known as the vestry, from the robing room of the church, in which such meetings were held. Under the Tudors, the vestry was made the basis of a distinctly civil administration, especially in regard to poor relief and highways. All the inhabitants were nominally entitled to attend these meetings; but the records available indicate the attendance of only a small number of the more substantial persons.

By the first part of the seventeenth century, it had become customary to choose in

the open vestry a select committee to advise the parish officers; this committee in many places came to fill vacancies in its own membership, and in this form the select vestry developed into a close corporation, whose powers were later recognized as legal by prescription. During the eighteenth century such select vestries were important organs of local government in England.

In the early days of Virginia parishes were organized with a vestry of twelve "selected men," who were chosen at first by the parishioners, but later the practice of coöptation

was established as in the "select vestry" of England. The select committee of the English vestry may be the origin of the selectmen of the New England towns; but in the latter case annual elections were maintained and the selectmen never acquired legal recognition as a close corporation.

See PARISH VESTRY IN ENGLAND.

References: J. A. Fairlie, *Local Government in Counties, Towns and Villages* (1906), chs. i, ii; S. and B. Webb, *English Local Government, the Parish and the County* (1906), Bk. I.

JOHN A. FAIRLIE.

VETO POWER

Historical.—The veto power, which is possessed by the President, the governors of all the states (except North Carolina) and the mayors of many cities, is properly not an executive but a legislative power. It is part of our English heritage transmitted through colonial times. In England the king was once the lawmaking authority; he presided over his council, entertaining petitions and granting redress. In the fifteenth century he was deprived of all but a negative voice when Parliament established the practice of submitting petitions in the form of statutes. Though still regarded as part of the legislature, he has lost even the right of veto, no case of its exercise having occurred since 1707. But while the veto fell into desuetude at home (through the rise of cabinet government), its operation remained unimpaired in the colonies. There the governors roused irritation by their abuse of it; and the fact that colonial laws, even after receiving the governor's assent, might be disallowed by the king and sometimes were disallowed purely in the interests of the mother country was put forward in the Declaration of Independence (*see*) as one of the causes of separation. Under these circumstances and in view of the popularity which the doctrine of separation of powers then had, it is remarkable that the convention of 1787 entrusted to the President even a qualified veto.

President's Veto.—It is provided in the Constitution that every bill which is adopted by Congress and every order, resolution or vote which requires the concurrence of both houses (except a vote to adjourn) must be submitted to the President and, to become a law, must receive his signature (Art. I, Sec. vii, ¶¶ 2, 3). In practice there are two exceptions to this rule: concurrent resolutions (*see*) from which Congress has always excluded matter of a legislative nature, and constitutional amendments (*see*). The President is allowed ten days (Sundays excepted) to consider every measure submitted to him. He usually secures the opinion of the head of that de-

partment to which the subject matter relates and sometimes also consults the Attorney General on any legal questions involved. If, in the light of these opinions and of his own examination, he finds serious grounds for disapproval, he may return the measure, with a statement of his objections, to the house in which it originated; and it will then become law only if repassed through both houses by a two-thirds majority of those present. It appears that, once having exercised the veto, the President cannot recall it; for in President Grant's second administration Congress twice refused to allow him to consider bills which he had returned with objections. The President cannot veto single items of a bill. In order, therefore, to secure his acceptance of some measure to which he is hostile Congress has occasionally attached it as a "rider" (*see*) to an appropriation bill (*see*), thus giving the President the alternative of giving way or losing the money necessary for government expenditures. Instead of resorting to the veto the President may express his disapproval simply by withholding his signature; such was the course taken by Mr. Cleveland with regard to the Wilson Tariff Bill. One of two things may then happen. If Congress remains in session, the bill becomes law, after the expiration of ten days, without being signed; but if Congress adjourns *sine die* within that period and thus prevents the President from sending his veto message, the bill does not become law. It follows that the President has, in effect, an absolute veto over all bills passed through Congress in the last ten days of the session. This is called the "pocket veto." Though rarely used, it has the advantage of protecting the country from defective legislation in the rush of business which usually marks the days immediately preceding adjournment. As to whether the President may sign a bill after the adjournment of Congress the Constitution is silent. A precedent was created in favor of such power when Congress recognized, by amending it, an act which had been signed under such circumstances by Presi-

dent Lincoln. Moreover, the United States Supreme Court decided, in a case under the Illinois provision which was copied from the Federal Constitution, that signature after adjournment and within ten days of presentation was valid. But however favorable this decision may be to the cause of good government, it is not in line with the practice or expressed views of the federal executive.

Purposes of the Veto.—According to Hamilton (the *Federalist*) the President's veto was first to protect the executive against encroachment on the part of Congress, and, secondly, to prevent hasty and imprudent legislation. At that time there seems to have been no idea that the veto would be necessary to check the enlargement of the power of Congress in other ways than at the expense of the executive; yet vetoes for the protection of the executive have been fewer in number and of less practical importance than those based on other constitutional grounds. Out of 68 bills which have been vetoed as unconstitutional only 21 were regarded as encroaching on the executive, ten of these being reconstruction measures which were condemned on other grounds as well. In the early days the Presidents acted mainly in defence of the Constitution; and although vetoes on the ground of expediency grew more numerous from the time of Jackson, they remained decidedly in the minority until after the Civil War.

After that period, since the general government found itself possessed of powers which had hitherto been disputed, questions of administration became more important. The veto changed its character. It is now commonly exercised where the President regards a measure as objectionable either in principle or in probable results. According to President Cleveland the presidential review of legislation was intended to "invoke the exercise of executive judgment, and invite independent executive action." Most of the Presidents have used the veto sparingly. Down to the close of President Roosevelt's second administration in 1909 it appears to have been employed 541 times; but of these bills 265 were private pension bills of which Cleveland vetoed 260. Washington used the veto only twice. It was never used by John Adams, Jefferson, J. Q. Adams or Van Buren, who served full terms; or by W. H. Harrison, Taylor, Fillmore or Garfield. President McKinley vetoed 14 bills, President Roosevelt about 40. It should be noted that in signing bills Presidents have sometimes indicated objections which Congress has afterwards remedied by supplementary legislation.

Effects.—The veto power has worked well and met with popular approval. It has protected the Constitution in cases where the character of the measures was such as might have prevented the testing of their validity in

the courts. It has discouraged the waste of public money and stood in the way of hasty and unwise legislation. Far from resenting its extension the people have come to regard it as a wholesome check upon a body whose ways are sometimes regarded with suspicion as lacking firmness in the face of sectional or private influences. The fact that the veto is not absolute, but to be effective requires the support of more than one-third of the vote in each house is a guarantee against its abuse. It speaks well for the discretion of our Presidents that so few bills have been passed over their veto; in the time of Tyler one (the first instance); Pierce, five; Johnson (*see*) fifteen; Grant four; Hayes, one; Arthur, one; Cleveland, two. The case of Johnson was, of course, peculiar (*see* RECONSTRUCTION). Sometimes Congress has been deterred from passing objectionable measures by the knowledge that the President was prepared to veto them; and President Roosevelt went so far as to announce publicly that he would take that course with regard to certain measures pending in Congress.

Governor's Veto.—Our earliest state constitutions show, in many respects, a confidence in the legislature and a distrust of the executive; and it was natural, after the abuse of the veto power in colonial times, that in most cases no provision should have been made for its continuation. The veto was granted in only three of the thirteen states: Massachusetts, South Carolina and New York. In South Carolina, where it was absolute, it was almost immediately abolished and not restored till 1865; in New York, where it was limited, it rested with a board of revision consisting of the governor and the judges of the supreme court; in Massachusetts the veto belonged to the governor, but could be overridden by a two-thirds vote of the houses. But faith in the elected executive increased. Between 1785 and 1850 four of the original states (Georgia, Pennsylvania, Connecticut, and New Jersey) had granted the veto. Since then all except North Carolina have done so. Of the other states all but four adopted the veto at the time of their admission to the Union; and these four did so subsequently, Ohio being the last in 1903. New York in 1821 and Illinois in 1848 abolished the board or revision, transferring its powers to the governor.

All measures requiring the concurrence of both houses are subject to the veto; the only exceptions are constitutional amendments, referenda, and questions of adjournment. All the more recent constitutions and some of the old ones by amendment (two-thirds of the states) allow the governor to veto single items in appropriation bills; Washington, Virginia and Ohio extend this provision so as to have it apply to all bills. This is undoubtedly a great advance over the federal law and illustrates very well the growing disposition to regard

the governor as the guardian of the public welfare against the corrupt schemes of legislators. The veto is used not only in the case of measures which the governor may regard as unconstitutional, but also in the case of those which run counter to his policy.

In all the states (except, of course, North Carolina) the procedure follows the general lines laid down in the Federal Constitution. If the governor approves a bill, he signs it; if he disapproves, he returns it, with a statement of objections, to the house in which it originated (except in Kansas where he returns it to the lower house and in Georgia where the house is not specified). The majority required to override the veto varies, only nine states following the federal practice (two-thirds of those present in both houses). In one state, Connecticut, only a majority of those present is required; in eight states a majority of all members; in 23 states a majority of two-thirds of all of the members; in four of the states a majority of three-fifths of all the members; in Virginia a majority of all the members and also two-thirds of those present; in Massachusetts two-thirds of all the members of the original house and two-thirds of those present in the other house. Bills are seldom carried over the veto, partly because of the large majority usually required and partly because of public attention which the governor's message fixes upon the legislature. Even when the governor acts from partisan motives, the dominant party can hardly master a sufficient vote in both houses. The time allowed the governor for the consideration of bills varies from three to ten days; five days is the time allowed in 21 states. Unless approved or vetoed within that time the bills normally become law. But in cases where the legislature has adjourned in the meantime the procedure varies in the different states. In eleven states the bills do not become law; in eleven others they do not become law unless signed within a specified time, varying from three days in the case of Minnesota to 30 in the case of New York. In Missouri and Iowa they may be approved or disapproved within thirty days. In the remaining states the bills become law unless objected to, usually within a period of five to thirty days, and, in some cases, unless returned the next session of the legislature. No power which the governor possesses strengthens his hands more or serves the public interest better. The growing importance of his office is not due to his executive authority which is small, but to the low repute into which some of our state legislatures have fallen and to the service which he performs in detecting and thwarting sinister schemes.

The Mayor's Veto.—In many of our cities the mayor has the power to veto the ordinances of the local legislative body, the majority required for repassage varying as in the states.

In some cities—including Baltimore, Boston, New Orleans, Philadelphia, St. Louis, New York and San Francisco, and most cities of Ohio and Illinois—this power extends to the items of appropriation bills. In the state of New York the mayor, either alone or in conjunction with the council, according to the size of the city, may veto any special bill affecting the city; and the bill cannot become law unless repassed by the legislature in the same session. The veto of the mayor, though useful, has much less importance than that of the governor because of the steady decay of the city councils and the transfer of their powers to other bodies.

See EXECUTIVE AND CONGRESS; EXECUTIVE AND EXECUTIVE REFORM IN AMERICAN SYSTEMS; GOVERNOR OF THE STATE; MUNICIPAL GOVERNMENT IN THE UNITED STATES, ORGANIZATION OF; PRESIDENT, AUTHORITY AND INFLUENCE OF.

References: C. A. Beard, *Am. Government and Politics* (1910); J. Bryce, *Am. Commonwealth* (1911), J. H. Finley and J. F. Sanderson, *Am. Executive and Executive Methods* (1908), chs. vi, xv; E. C. Mason, *Veto Power* (1891); Rhode Island State Library, *Veto Power in the Several States* (1907).

CHARLES A. BEARD.

VICE INVESTIGATIONS. The moral conditions in American cities including systematic understandings between proprietors of prohibited callings and the police, have led to systematic investigations by private agencies or by public officials in several cities. In some cases the only way to get evidence has been by pretending to open a gambling house, or unlicensed saloon, or disorderly house, and involving members of the police force in what is thus proven to be their ordinary practice of taking protection money. Three elaborate investigations have recently been made, one in New York, one in Minneapolis, and one in Chicago, dealing with child-life, housing, gambling, dance houses, and other dangerous amusements, the social evil and the white slave traffic. See AMUSEMENTS, REGULATION OF; GAMBLING; LIQUOR LEGISLATION; POLICE IN AMERICAN CITIES; PUBLIC MORALS, CARE FOR; SOCIAL EVIL, REGULATION OF; SOCIAL REFORM PROBLEMS; TENEMENT HOUSE REGULATION; VAGRANCY. **References:** *House Reports* (on White Slave Traffic), 61 Cong., 2 Sess., No. 47 (1909); *Senate Doc.*, 61 Cong., 3 Sess., No. 702 (1910); U. S. Immigration Commission, "Importing Women for Immoral Purposes" in *Sen. Doc.*, 61 Cong., 2 Sess., No. 196 (1909); Chicago Vice Commission, *Social Evil in Chicago* (1911, 4th ed., 1912); Minneapolis Vice Commission, *Report to the Mayor* (1911); New York Committee of Fourteen, *Social Evil* (1910); New York Committee of Fifteen, *Social Evil* (2d ed., 1912); Philadelphia Vice Commission, *Report* (1913); Port-

VICE-PRESIDENT—VILLAGES, INCORPORATED

land. Oregon, Vice Commission, *Report* (1913); G. J. Kneeland, *Commercialized Prostitution in New York* (1913). A. B. H.

VICE-PRESIDENT. Since deputy governors were familiar in Colonial times, it was natural for the Constitutional Convention of 1787 to provide for a Vice-President to act in case of accidental vacancy of the presidency or disability of the President. By making him the presiding officer of the Senate a regular function was assigned to him (Art. I, Sec. iii, Art. II, Sec. i, ¶ 1, 6). However, even men like John Adams and Thomas Jefferson could not rescue the vice-presidency from ineptitude; and a waggish member in 1789 proposed to give the Vice-President the title of "his superfluous excellency." Under the original provision for election, the Vice-President was the man who had the second highest number of votes, which meant that he might probably be of the opposite party from the President (Art. II, Sec. i, ¶ 3). The Twelfth Amendment (*see*) adopted in 1804 so arranged it that the Vice-President will, unless there is no choice by electors, infallibly be of the same party as the President. Since Jefferson, no former Vice-President has ever been chosen to be President, with the exception of Roosevelt. Some men of distinction have served in the office; but candidates are usually nominated rather with a view to getting the votes of a particular section or of the wing of a party than for their supposed qualifications for the presidency. See **PRESIDENTIAL ELECTORS**; **PRESIDENTIAL ELECTIONS**; **PRESIDENTIAL SUCCESSION**; **SENATE OF THE UNITED STATES**. **References:** E. Stanwood, *Hist. of the Presidency* (1898); J. Bryce, *Am. Commonwealth* (4th ed., 1910); J. T. Morse, *John Adams* (1899), *Thomas Jefferson* (1899); H. von Holst, *John C. Calhoun* (1899); E. M. Shepard, *Martin Van Buren* (1899); lives of other Vice-Presidents. A. B. H.

VICE-PRESIDENTS OF THE UNITED STATES. Following is a list of the first twenty-eight Vice-Presidents of the United States:

1789 (April 20)—1797 (March 3), John Adams.
1797 (March 4)—1801 (March 3), Thomas Jefferson.
1801 (March 4)—1805 (March 3), Aaron Burr.
1805 (March 4)—1812 (April 20), George Clinton (Re-elected, 1809; died in office, April 20, 1812).
1812 (March 4)—1814 (died in office, Nov. 23), Elbridge Gerry.
1817 (March 4)—1825 (March 3), Daniel D. Tompkins (Re-elected, 1825).
1825 (March 4)—1832 (resigned, Dec. 28), John C. Calhoun (Re-elected, 1829).
1833 (March 4)—1837 (March 3), Martin Van Buren.
1837 (March 4)—1841 (March 3), Richard M. Johnson.
1841 (March 4)—1845 (succeeded to the presidency on death of Harrison, Apr. 4), John Tyler.
1845 (March 4)—1849 (March 3), George M. Dallas.
1849 (March 4)—1850 (succeeded to the presidency on death of Taylor, July 9), Millard Fillmore.
1853 (March 4)—1853 (died in office, Apr. 18), William R. King.

1857 (March 4)—1861 (March 3), John C. Breckinridge.
1861 (March 4)—1865 (March 3), Hannibal Hamlin.
1865 (March 4)—1865 (succeeded to the presidency on death of Lincoln, Apr. 15), Andrew Johnson.
1869 (March 4)—1873 (March 3), Schuyler Colfax.
1873 (March 4)—1875 (died in office, Nov. 22), Henry Wilson.
1877 (March 4)—1881 (March 3), William A. Wheeler.
1881 (March 4)—1881 (succeeded to the presidency on death of Garfield, Sept. 19), Chester A. Arthur.
1885 (March 4)—1885 (died in office, Nov. 25), Thomas A. Hendricks.
1889 (March 4)—1893 (March 3), Levi P. Morton.
1893 (March 4)—1897 (March 3), Adlai E. Stevenson.
1897 (March 4)—1899 (died in office, Nov. 21), Garret A. Hobart.
1901 (March 4)—1901 (succeeded to the presidency on death of McKinley, Sept. 14), Theodore Roosevelt.
1905 (March 4)—1909 (March 3), Charles W. Fairbanks.
1909 (March 4)—1912 (died in office, Oct. 30), James S. Sherman.
1913 (March 4)—Thomas R. Marshall.

Reference: "Brief Biographical Notes" in *Congressional Biographical Dictionary* (1903). A. B. H.

VIGILANCE COMMITTEE. A term applied to committees formed in the North previous to the Civil War to aid in the escape of fugitive slaves (*see*). Also a name adopted by the voluntary organization for the purpose of keeping peace in California in the days of the great migration. O. C. H.

VILLAGES, INCORPORATED. **Variety.**—In addition to the more important urban municipalities there are in the United States many thousand (over 10,000 of less than 8000 population in 1900) of small semiurban communities. These smaller municipal corporations are called in different states villages, boroughs and incorporated towns; and in some states even the smallest villages are included in the term cities. Such incorporated villages and towns are not only smaller in size than most cities; but they also have a simpler system of government and exercise a smaller range of functions. At the same time they differ from the New England towns and townships in the middle Atlantic and north central states in covering only detached areas and in dealing for the most part with the special needs of the compactly built districts.

Distribution.—Comparatively few of these incorporated villages are found in New England; as in these states the town governments usually serve the needs of the villages as well as the rural sections of the towns. But since 1890 there has been some tendency in several of these towards the separate incorporation of villages and boroughs. The larger number of incorporated villages are found in the north-central group; in the southern states, where there is no general system of township government, the tendency is for smaller villages than in the northern states to be incorporated.

VIRGINIA

During the colonial period, besides the municipal corporations called cities, a number of smaller places were incorporated as boroughs in Pennsylvania and New Jersey. About the end of the eighteenth century several villages were incorporated in New York. From these states the organization of incorporated villages and towns has extended to the south and west; and some have been established in several New England states. For a time such villages and boroughs were incorporated by special acts of the state legislatures. But in 1834 a general law was passed for the organization of boroughs in Pennsylvania, and in 1847 a general law for the incorporation of villages in New York.

General Laws.—Most states now have a general law for the incorporation of villages, boroughs or incorporated towns; but there is also a considerable amount of special legislation for particular communities. Under the general laws, the procedure for incorporation usually requires a petition from the inhabitants of the proposed village and a popular vote on the proposition. The petition goes in some states to a local judge, in others to the county board and in New York to the supervisor or supervisors of the town or towns concerned. In some states (*e. g.*, Ohio and Missouri) villages may be established by the county board without a formal vote of the electors in the proposed village.

In many cases the statute establishes a minimum population for new villages, most commonly from two hundred to three hundred. The maximum population of villages varies more widely. In New York and Pennsylvania the minimum population for cities is 10,000; in Ohio, Virginia and Louisiana it is 5,000; in Missouri and Alabama, 3,000, in a number of other states, 2,000. Municipal corporations below these figures are legally villages or boroughs in the respective states; but sometimes a village or borough will have a considerably larger population before steps are taken to reincorporate as a city.

Functions.—The functions and importance of village government vary considerably in different sections of the country. In New England, the villages deal only with the special needs of the more compactly built section, such as fire protection, police, street paving and sidewalks, sewers, water works and street lighting. In most of the middle Atlantic and

north central states, the general purposes of village government are about the same; but in practice the villages are more important, and in some cases the villages absorb some of the township functions. In several states (Pennsylvania, New Jersey, Wisconsin, Minnesota, and the Dakotas), the villages are independent of the townships, and the usual township functions are added to those of the village.

Organization.—Village organization is comparatively simple. The principal authority is a board of trustees or council, most often composed of from five to seven members, elected at large for one or two years. In states where the smallest villages are organized as cities, members of the council are sometimes elected by wards. Such village boards have power to pass ordinances on many subjects enumerated in the statutes, a limited power of taxation, and of authorizing special assessments for street improvements. Borrowing powers are generally dependent on a popular vote.

The chief official of a village is usually called the mayor or president, and is elected for one or two years. His special legal authority has not been of much importance; but in some states there is now a tendency to invest him with the veto and appointing power, as in the case of city mayors. Other village officers include a clerk, treasurer, constable, street commissioner, and in some states assessor, attorney and justice of the peace. In states where there are villages of considerable size there may be additional officers, as in the New York village law.

Significance.—The system of village government plays a more important part in the local government of the country than has generally been recognized; and is indeed closely connected with the existence and importance of town and township government. The artificial nature of the township area in the north central states, and the limited powers of the townships have led to the development of village governments which attend to much of the more important business of the New England town; and the villages in the southern and far western states take the place to some extent of a general system of township government.

See BOROUGH; PROPRIETARY VILLAGES; TOWNS AND TOWNSHIPS.

Reference: J. A. Fairlie, *Local Government in Counties, Towns and Villages* (1906), ch. xi.

JOHN A. FAIRLIE.

VIRGINIA

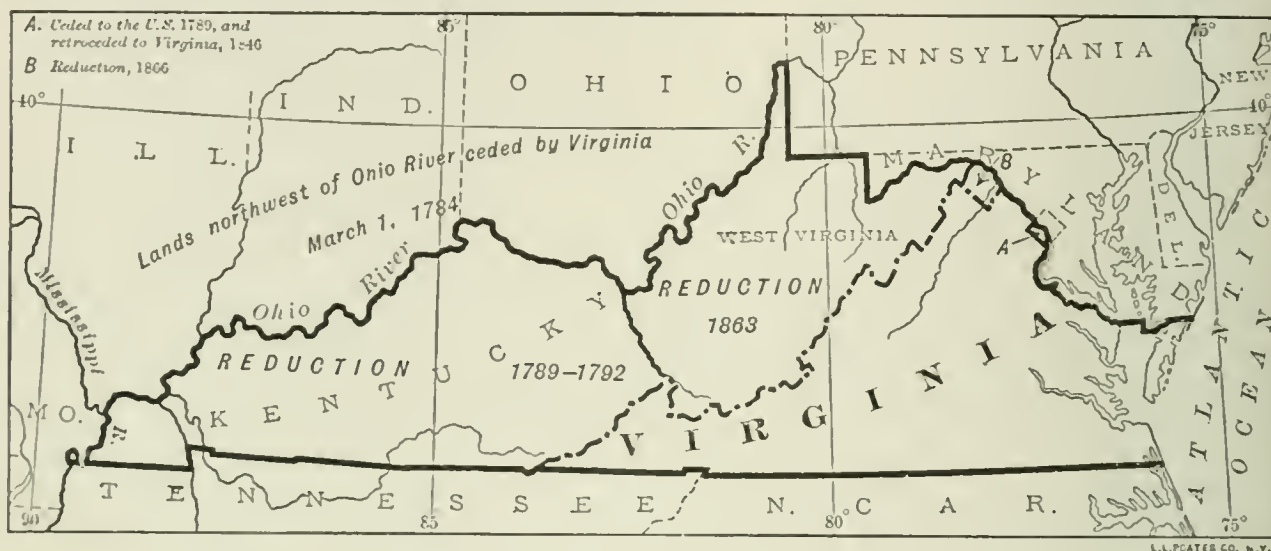
Settlement and Early Administration.—Virginia was settled by 105 English colonists, sent out by the London company, in 1607. They chose a site on the James River some forty miles northwest of Norfolk. New settlers arrived almost every year until 1619

but almost as many were carried off by disease, famine or Indian attacks. The little community was under the authority of the governors and councils appointed by the company until 1619, when a house of burgesses was granted which henceforth exercised the right

VIRGINIA

to vote taxes for the government and the common defense. In 1624 the authority of the London company was transferred to the British monarch who appointed the governors and enjoyed the right to veto all local law. The governors in turn nominated to the Crown the members of the council, and all administrative officers. The county courts were composed of a board of magistrates who were originally named by the governor but who were practically self-perpetuating afterwards. The parishes, or smaller units of government, were under the control of vestries originally elected by the congregations but these again became self-perpetuating. Most of the affairs of local government, such as the building of bridges, the opening of roadways and the engaging of

diciary was reorganized though the county courts remained as before, and in general the same men were continued in power both in legislative and judicial departments. The suffrage was extended slightly while representation was distributed in a way to curb the power and influence of the growing western countries. In 1786 the Virginia legislature passed resolutions asking for a convention of delegates from other states for the purpose of strengthening the Confederation. The Federal Convention (*see*) met in Philadelphia and in September following submitted a new constitution to the several states. Though Virginia leaders had been most influential in drafting the new document, great hostility was immediately manifested especially in the



BOUNDARIES OF THE STATE OF VIRGINIA, SHOWING TERRITORIAL CHANGES

teachers, devolved upon the courts which assembled monthly at the court houses where the people gathered at the same time to transact business, to listen to political speeches and to urge their causes either in court or with the judges sitting as administrative officers.

The house of burgesses, like the English House of Commons, steadily increased its powers, supported as it was always by the county courts, until the governors nominally independent were really subordinate to it. The governor and council, sitting during the earlier period with the burgesses, later formed a separate body (about 1680). It could veto acts of the more popular assembly, but this in time became only a suspensive power. The governor and council sat also as a general court to decide causes appealed from the county courts.

Revolutionary Changes.—The Revolution brought a new constitution but little real change. The royal governor was superseded by an executive chosen by the joint houses of the legislature; the council became the senate, an upper house of fifty members, with a real veto on the acts of the other body; and the burgesses were changed to a house of delegates, chosen annually from each county. The ju-

middle and western parts of the state. The smaller eastern counties where slavery was dominant were almost unanimously in favor of adoption. A convention was called for June 2, 1788, and after a long and bitter contest the delegates of the eastern counties won and the Federal Constitution was adopted (June 26).

Virginia Loses Ascendency.—Virginia was the mainstay of the Jefferson party (*see* DEMOCRATIC-REPUBLICAN PARTY) which gained control of the Federal Government in 1801; middle and western Virginia strongly favored the war with England in 1812; but at the close of that struggle in 1816 the scepter passed from the hands of the so-called "Virginia dynasty" to those of the South Carolina leaders and their western allies. In 1829 the centre of power was shifted still further westward and Virginia seemed to be out of the national current. Reform measures were agitated 1815 to 1828 and a new constitutional convention called in 1829 and again in 1850 to readjust the representation of the different sections of the state. Little was really done and western Virginia remained half hostile till the outbreak of the Civil war (*see* WEST VIRGINIA).

Secession.—In February, 1861, a fourth convention of the people met in Richmond to decide whether Virginia should secede from the Union. On April 17 the ordinance of secession (*see*) was passed and submitted to popular vote late in May, after the war had already begun, and when a vote on the merits of the question was impossible. Every county east of the Alleghenies returned overwhelming majorities in favor of secession; the forty counties west of the same boundary took steps toward forming a separate government and declared independence on June 11, 1861. At the close of the war in 1865, a "rump" government at Alexandria, with Francis H. Pierpont as governor, was transferred to Richmond by order of President Johnson; but this government was superseded by the military authority of the Federal Government in 1867, and in 1868, after the right of suffrage had been conferred upon the freedmen, a fifth convention was held. The resulting constitution and laws confirmed the acts of the military government, reestablished and improved the school system and gave Virginia history a new direction. The Fourteenth and Fifteenth Amendments (*see*) to the Federal Constitution were adopted by Virginia in 1869, and on January 26, 1870, the state was readmitted to the Union (*see* RECONSTRUCTION). There was much friction in local politics particularly in the settlement of the ante-bellum debt and on the negro question until 1902, when the present constitution was adopted. Under its provisions the negroes are effectually barred from the polls by the franchise clauses which require the ownership of property or ability to write and evidence of the payment of poll taxes for three years preceding registration; about one half of the white voters are also eliminated (*see* NEGRO SUFFRAGE).

Administration.—The governor of Virginia is now chosen by popular vote for terms of four years; he is the head of the state, he exercises the veto, appoints numerous minor officials and receives a salary of \$5,000 per annum. The departments of administration, secretary of state, treasurer, attorney general and so on are also elected by the people, each for a term of four years. The legislature meets biennially on the first Monday in January and remains in session only sixty days. Members of the house of delegates are chosen every two years while senators are elected for terms of four years, the former representing as nearly as may be the counties, the latter districts, which frequently include several counties. Representation is apportioned according to population and not according to voters, a plan which allows the older counties, where there are many negroes, even more weight in legislation than in ante-bellum times when the slaves were represented as property. The judiciary, composed of a court of appeals, circuit and municipal courts, is elective for terms

by the legislature. The county courts, formerly the governing oligarchies of the state, have practically ceased to exist and the business of the county is in the hands of supervisors chosen by popular vote for so-called magisterial districts, of which there are from three to eleven in each county; the supervisors levy the taxes, audit the county finances and perform most of the administrative functions formerly devolving upon the county courts. In each county there is also a sheriff, a treasurer, a commonwealth's attorney and a clerk of the court, all chosen by popular vote for stated terms. In the districts there is a coroner, appointed by the judge of the circuit court; justices of the peace, constables and overseers of the poor, elected for definite terms. Organized communities of less than 5,000 people are designated by law as towns, while groups of more than 5,000 are called cities and in both local self-government, except in the appointment of the judges, obtains. The judges are appointed by the legislature. The greatest progress is being made in public education. In 1907 there were enrolled in the schools 369,241 children, though the school population numbered 630,204; and in the same year \$3,357,475 was expended for schools, which is a large sum when the total taxable wealth is taken into account. The value of property, real and personal, is \$541,456,220 while the public debt is \$25,110,320. In 1870 this debt was \$45,000,000. A part of this difference was assigned by the U. S. Supreme Court in 1910 to West Virginia but the larger portion has been paid direct from the state treasury.

Parties.—The main interests of the people are agricultural and there are few towns of importance, Richmond, Norfolk and Petersburg being the more notable with populations ranging from 100,000 down to 25,000. The state is normally Democratic by a majority of from 20,000 to 30,000; both federal Senators are Democratic (1913) and all the representatives, but one, belong to the same party. General elections, both national and state, attract little attention and not one half of those who might vote do so. The voluntary primary which is applied only in the Democratic party offers the real occasion for rivalry and conflict and it is in this way that the decisions of the people on matters of policy are made.

Population.—The population was 747,610 in 1790, 880,200 in 1800, 974,600 in 1810, 1,065,116 in 1820, 1,211,405 in 1830, 1,239,797 in 1840, 1,421,661 in 1850, 1,596,318 in 1860, 2,061,612 in 1910.

See SECESSION; SOUTH; VIRGINIA AND KENTUCKY RESOLUTIONS.

References: C. H. Ambler, *Sectionalism in Virginia* (1910); J. S. Bassett, *Writings of Colonel William Byrd* (1901); R. Beverley, *Hist. of Virginia* (1855); A. Brown, *Genesis of the U. S.* (1890), *The First Republic in America* (1898); P. A. Bruce, *Econ-*

VIRGINIA AND KENTUCKY RESOLUTIONS

omic Hist. of Virginia in the 17th Century (1895), *Institutional Hist. of Virginia in the 17th Century* (1910); J. E. Cooke, *Virginia* (1900); *Debates of the Convention of 1829-30* (1830); T. R. Dew, *Review of the Debates in the Virginia Legislature of 1831-32* (1852); W. W. Henning, *Statutes at Large of Virginia* (1819); R. R. Howison, *Hist. of Virginia* (1849); Rev. W. Meade, *Old Churches, Ministers and Families of Virginia* (1857); W. P. Palmer, *Calendar of Virginia State Papers* (1875-84). WILLIAM E. DODD.

VIRGINIA AND KENTUCKY RESOLUTIONS

Origin.—In 1798 the Federal party, elated by the temporary popularity which was the result of the trouble with France, passed the Alien and Sedition Acts (*see*). These acts, if not unconstitutional, certainly may be said to have reached the very border of legality. They were thought by the Republican leaders seriously to menace individual liberty and to be a clear expression of Federalistic doctrine; they appeared to bear out the accusation often brought by the Republicans that the Federalists were intent upon building up a tyrannical government and disregarding the constitutional limits upon the authority of the central government. Jefferson and Madison and some of their followers thought, therefore, that it was time to speak out and to denounce Federal methods of interpretation and these acts in particular. Resort was had to the state legislatures of Virginia and Kentucky. A set of resolutions for the consideration of the Kentucky legislature was drawn up by Jefferson; but the fact of his authorship was not known until many years later. Madison prepared a set for the Virginia legislature. The Kentucky legislature adopted resolutions November 16, 1798, which were similar to those prepared by Jefferson but did not follow his text in all particulars. Virginia acted the next month, December 24. The resolutions were sent out by both states for the consideration of the other members of the Union and brought forth responses from many of them, the subject being fully discussed in most of the legislative bodies of the Union. In 1799 (November 22) the legislature of Kentucky issued a reply to the responses received from the various states and the next year (1800) a long and elaborate report prepared by Madison was adopted by the Virginia legislature.

Significance.—These resolutions are of great significance in America constitutional history. Coming as they did from the two men whose names were most closely associated with the beginnings of the Republican party, they were continually referred to in later years as an authoritative statement of constitutional as well as party doctrine. They were over and over again brought up in the discussions concerning the nature of the American Union and the rights of the states; for the time came when it appeared to be sufficient to cite the "resolutions of '98," as they were called, to

substantiate fully the doctrine of complete and unalloyed state sovereignty.

Main Principles.—As far as the theory of government is concerned the most important part of the Virginia resolutions is the third paragraph. It declares:

That this Assembly doth explicitly and peremptorily declare that it views the powers of the Federal Government as resulting from the compact to which the States are parties, as limited by the plain sense and intention of the instrument constituting that compact; as no further valid than they are authorized by the grants enumerated in that compact; and that, in case of a deliberate, palpable, and dangerous exercise of other powers not granted by the said compact, the States, who are parties thereto, have the right and are in duty bound to interpose for arresting the progress of the evil, and for maintaining within their respective limits the authorities, rights, and liberties appertaining to them.

Of the first Kentucky resolutions the most important paragraph is the first. It declares:

That the several States composing the United States of America, are not united on the principle of unlimited submission to their general government; but that by compact under the style and title of a Constitution for the United States and of amendments thereto, they constituted a general government for special purposes, delegated to that government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government; and that whenever the general government assumes undelegated powers, its acts are unauthorized, void, and of no force: That to this compact each State acceded as a State, and is an integral party, its co-States forming, as to itself, the other party: That the government created by this compact was not made the exclusive or final judge of the extent of the powers delegated to itself; since that would have made its discretion, and not the Constitution, the measure of its powers; but that as in all other cases of compact among parties having no common Judge, each party has an equal right to judge for itself, as well of infractions as of the mode and measure of redress.

The second set of Kentucky resolutions (Nov. 22, 1799) asserted:

That the principle and construction contended for by sundry of the state legislatures, that the General Government is the exclusive judge of the extent of the powers delegated to it, stops nothing [short] of despotism—since the discretion of those who administer the government, and not the Constitution, would be the measure of their powers: That the several states who formed that instrument being sovereign and independent, have the unquestionable right to judge of the infraction; and, That a Nullification by those sovereignties, of all unauthorized acts done under color of that instrument is the rightful remedy.

Interpretation.—The interpretation of these documents is not an easy matter but a careful study of their provisions, in light of the political thinking of the eighteenth century and of the circumstances under which they were pro-

duced, will indicate that they were not intended to announce the doctrine of state sovereignty in the sense in which those words were commonly used from the time of Calhoun onward. It is well to remember that the first and most obvious intention of the framers of these documents was to pronounce against the validity of the Alien and Sedition Acts and to declare the invalidity and impropriety of the Federalist interpretation of the Constitution. They sought to make plain that the Federal Government was not entitled to proceed on the theory that there were no limits upon its authority; and the Kentucky resolutions stated very clearly that the central government was not the final judge of its own authority.

The interpretation must depend in very large measure upon the significance of certain salient words, especially the words "compact" and "sovereign." Let us notice first that the purpose was to protest distinctly against the theory that the United States Government was possessed of all power—a theory which might have been proper, if the Government had been established without reference to states or if the states had not been in existence at the time the Constitution was adopted. The assertion is made, therefore, that the Federal Government obtained its powers as a result of the compact between states and that its authority is limited by the plain terms of the instrument.

Compact.—To the defenders of state sovereignty in later years, the use of the word compact appeared in itself sufficient to show that in 1798 the Constitution was looked upon as a mere contract or treaty between states. This is the first and most fundamental error in the common interpretation of these documents. Compact was the most solemn and serious word in the political vocabulary of the men of the eighteenth century. Society itself as well as government was founded on compact, and government rested upon the consent of the governed (*see* SOCIAL COMPACT). This latter phrase, moreover, did not mean that all persons should have representation, but that government sprang from consent and agreement. The notion that government or constitution was the product of the will of a preëxisting unity—a body politic with power to announce its decisions and to lay down limits on government—was a conception quite foreign to the thinking of the men who drew up these resolutions. The word "compact," therefore, can be dismissed altogether as no indication that the framers of the Virginia and Kentucky Resolutions thought that the Constitution of the United States was a mere treaty between sovereignties who retained their power and self-determination in all respects undiminished. The word would rather imply the belief that the United States and the national government were established by the same sort of fundamental action as that by which state governments and, in fact, all free states and

governments, came into existence and by which they obtained their right and authority to act.

Reserved Rights.—No principle was more common to the political thinkers of America in the later decades of the eighteenth century than the principle that free governments must be limited and that no government can be free if there are not restraints upon its authority. This principle was applied in the resolutions to the national government in its relation to people and states. Moreover, men on entering society or in establishing civil government were supposed to surrender a portion of their rights in order that the remainder might be better protected and secured. There were certain natural rights, however, which were not surrendered and these were beyond the reach of government. It is noteworthy, therefore, that Jefferson in his resolutions, and the Kentucky legislature also, makes use of this doctrine of natural rights. The last words of the first Kentucky resolutions asked that the "co-States, recurring to their natural rights in cases not made federal," would concur in declaring the obnoxious acts void. The conception quite evidently is that, although the states in entering the Union gave up certain rights, they were not bound together on the principle of "unlimited submission to their general government" but had certain reserved rights which they were obliged to defend.

The same thought is carried out by the declaration that the states of the Union by a compact "constituted a general government for special purposes, delegated to that government certain definite powers, reserving each State to itself, the residuary mass of right to their own self-government."

Parties.—Of course to thinkers of a later time the assertion that the Constitution was formed by the states who were parties to it seemed, in itself, adequate for the establishment of the doctrine that it was merely a contract between sovereignties who remained possessed of their sovereignty in undiminished vigor. What has been said in the preceding paragraphs about the normal connotations of the word "compact" is perhaps sufficient to disclose the unsuitableness of this interpretation. But we may say again that the organization of governments and commonwealths by an agreement between parties was not a strange conception to the men of the eighteenth century, nor did the fact that parties existed before the contract indicate that they remained fully possessed of all their powers after the contract (*see* STATE SOVEREIGNTY). On the contrary they might very well have lost irretrievably the powers which they voluntarily surrendered, and, as a result of surrender and agreement, a substantial legal order might, according to the thinking of the times, have come into existence—a legal order which was entitled to undisputed sway within the limits set down by the agreement.

Right to Judge.—The right of the individual to protect his natural or reserved rights was part of the fundamental thinking of the American Revolution. Moreover, in the determination of crucial and critical matters and in times of real danger to individual liberty the individual or the people must be the ultimate judges of whether the government had transcended the limits of its authority and encroached upon their inalienable rights. This form of political thinking underlay the Virginia and Kentucky resolutions. The establishment of a government, which was a real government with actual authority, naturally sprang from agreement; but some rights were necessarily reserved, for no government was possessed of all authority; and those reserved rights could be protected and should be protected by those that had established the government and entered into the arrangement. And just as the persons, the original sovereigns, that have commonly established government, determine whether their reserved rights are affected, so the states must finally decide for themselves; the government was not made "exclusive or final judge of the extent of powers delegated to itself." From all these considerations we see that it was quite natural for the Republican leaders, when they were striving to resist the growing power of the central authority and to assert state rights, to declare that the central government was not the judge of its own powers, that it was limited by the plain sense of the compact, and that the states had the right and the duty to interpose for arresting the progress of the evil and for maintaining their rights.

Sovereignty.—Those that believed that these resolutions asserted the doctrine of undiminished and unqualified state sovereignty, naturally also referred to the word sovereign as if that in itself were conclusive proof of their interpretation. In this connection it should be noticed that Madison distinctly disavowed the interpretation put on the Virginia and Kentucky resolutions by the South Carolinians in 1832; he pointed to the fact that in early days sovereignty was supposed to be divisible. Probably writers of constitutional history will always have differences of opinion on the subject; but it appears to the writer of these paragraphs that the early orthodox doctrine coincides with this conception of divided sovereignty and that the notion of the men who framed the Constitution was that a state could come into the Union and give up irrevocably a portion of its sovereignty, just as the individual, the original sovereign, surrendered, when he entered society, the liberty which was his in a state of nature.

Conclusion.—These resolutions, therefore, instead of being the logical forerunner of later doctrines of undiminished sovereignty, put forth a different theory and rest upon thinking totally at variance with later arguments

in behalf of state sovereignty. For the orthodox doctrine of state sovereignty was based on the theory of indivisible sovereignty, and on the impossibility of constituting unity and superior legislative authority by agreement or consent. By the theory of the resolutions compact results in the establishment of real government: the states lose a portion of their sovereignty; but the national government has not unlimited power nor right to judge in critical cases of the extent of that power; the states retaining reserved rights can protect those rights.

See NULLIFICATION CONTROVERSY; SECESSION CONTROVERSY; STATE SOVEREIGNTY; VIRGINIA.

References: J. Elliot, *Journal and Debates of the Federal Convention* (1830), IV, App., 357-388; F. M. Anderson, "Contemporary Opinion of the Virginia and Kentucky Resolutions" in *Am. Hist. Rev.*, V (1899-1900), 45-225; A. C. McLaughlin, "Social Compact and Constitutional Construction" in *ibid*, 467; E. D. Warfield, *The Kentucky Resolutions of 1798* (1887); C. W. Loring, *Nullification, Secession, Webster's Argument and the Kentucky and Virginia Resolutions* (1893); H. von Holst, *Constitutional History of the U. S.*, I, (1877), 144-167; J. Lalor, *Cyclopedia of Political Science* (1890), II, 672-677.

ANDREW C. McLAUGHLIN.

VIRGINIA DYNASTY. A name given by opponents of Virginia's domination of national affairs to the men from Virginia (Jefferson, Madison, Monroe) who filled the presidency from 1801 to 1825.

O. C. H.

VIRGINIUS EPISODE, 1873. The *Virginus*, a vessel sailing under the American flag with men and supplies bound for the Cuban insurgents, was seized by a Spanish war vessel on the high seas October 31, 1873, and taken to Santiago, Cuba, where within a week fifty-three of her passengers and crew were condemned to death by a military court and executed. The United States at once demanded redress on the grounds: (1) that the vessel was seized on the high seas on a charge of piracy which Spain was unable to sustain; (2) that American citizens, no matter what their offence, were entitled under treaty to a civil trial. The incident came near precipitating war, but Spain succeeded in proving that the *Virginus* was fraudulently registered and did not have the right to carry the American flag. Spain finally surrendered the vessel to the United States and paid an indemnity for the lives of the persons executed. See CUBA AND CUBAN DIPLOMACY; HIGH SEAS; NEUTRAL TRADE, PRINCIPLES OF; SPAIN, DIPLOMATIC RELATIONS WITH. **References:** J. B. Moore, *Am. Diplomacy* (1905), 79-80, *Foreign Relations* (1874), 922-1117 (1875), 1144-1153 (1876), 486-535.

J. H. L.

VITAL STATISTICS OF THE UNITED STATES

Value of Vital Statistics.—Vital statistics as ordinarily understood are the statistics derived from the records of the chief events of human life, namely, those of births, deaths, marriages, divorces, and sickness. Sickness or morbidity statistics are so incomplete in many countries as well as in the United States that they do not enter very largely into international comparisons. Nearly all civilized countries at the present day maintain adequate records of the other classes of vital events and their statistical study is considered very important. Such records are of great value to the individual and to society, apart from their uses as the bases of vital statistics.

The prevalence of various diseases, especially those of an infectious character, with their incidence upon the various classes of the population by sex, age, color, nationality, and as related to occupational influences and the causes of infant mortality, must be constantly followed by public health workers. The practical applications of sanitary science have caused large reductions in the death rates during recent years. There is a very general tendency to a reduction in the birth rate. The fluctuations of marriage rates are closely related to social and economic conditions, and the rapid increase of the divorce rate in the United States is evidence of needed attention to the conditions underlying this phenomenon. In general, for many important problems affecting the individual, civic, state and national welfare, the appeal is to vital statistics, and it is therefore highly desirable that there should be a sound basis of correct registration records.

Inadequacy in United States.—The United States is far behind nearly all other civilized

countries of the world with respect to the registration of vital statistics. This is because such registration is conducted entirely under the laws of the various states, or under local municipal ordinances in the absence of state laws, and is not, consequently, under federal direction or subject to a general and uniform law for the entire country. While the regular decennial enumerations of population, instituted in 1790 for the purpose of apportioning political representation, afford an excellent basis of comparison for such vital statistics as may be obtained, the Government has never undertaken, and it is supposed has no constitutional authority to undertake, the direct collection of vital statistics by the only means by which such data can successfully be collected, namely, by the immediate registration of the events as they occur.

About the middle of the last century, following the establishment of national registration in England (1837), there was an active interest in the subject of vital statistics in the United States and several states enacted laws for this purpose. A schedule of mortality was introduced among the inquiries of the seventh census. This system was continued for the successive federal censuses until the twelfth (1900), and in the later one an effort was also made to present the number of births during the census year as derived from the addition of the deaths of infants born and dying in that year and the number of infants under one year of age enumerated in the population returns. The data obtained in this way were not sufficiently complete, however, to afford reliable birth rates or death rates, although they were found valuable for certain internal comparisons.

DEATH RATES IN THE REGISTRATION AREA

Year	Population of Continental United States	Population of Registration Area		1 Deaths in Registration Area	
		Number	Per Cent	Number	Rate per 1000 Population
Census year, 1879-1880 -----	50,155,783	8,538,366	17.0	178,645	19.8
Census year, 1889-1890 -----	62,622,250	19,659,440	31.4	386,212	19.6
Census year, 1899-1900 -----	{ 75,994,575 }	28,807,269	37.9	512,669	17.8
Calendar year, 1900 -----		30,765,618	40.5	539,939	17.6
Calendar year, 1901 -----	77,747,402	31,370,952	40.3	518,207	16.5
Calendar year, 1902 -----	79,365,396	32,029,815	40.4	508,640	15.9
Calendar year, 1903 -----	80,983,390	32,701,083	40.4	524,415	16.0
Calendar year, 1904 -----	82,601,384	33,345,163	40.4	551,354	16.5
Calendar year, 1905 -----	84,219,378	34,052,201	40.4	545,533	16.0
Calendar year, 1906 -----	85,837,372	41,983,419	48.9	658,105	15.7
Calendar year, 1907 -----	87,455,366	43,016,990	49.2	687,034	16.0
Calendar year, 1908 -----	89,073,360	46,789,913	52.5	691,574	14.8
Calendar year, 1909 -----	90,691,354	50,870,518	56.1	732,538	14.4
Calendar year, 1910 -----	92,309,348	53,843,896	58.3	805,412	15.0
Calendar year, 1911 -----	93,927,342	59,275,977	63.1	839,284	14.2
Calendar year, 1912 -----	95,545,336	60,427,133	63.2	838,251	13.9

1 Exclusive of stillbirths.

VITAL STATISTICS OF THE UNITED STATES

Deaths.—Beginning with the tenth census (1880), transcripts of registration records of deaths were accepted for two states, Massachusetts and New Jersey, and also for the District of Columbia, and certain cities, in which it was believed that the registration of deaths was most nearly complete. The states and cities thus selected constituted what was known as the registration area and the rates based on the returns from this area were sharply distinguished from the less reliable rates based partly or completely upon enumerators' returns. The history of registration since 1880 has been that of the development of the registration area. The growth of the registration area for deaths, the proportion that it bears to the total population of the country, and also the total number of deaths registered and the death rates per 1,000 population, are given in the table on the preceding page.

The population included in the registration area for deaths is thus seen, for the year 1911, to comprise more than one half (57.9 per cent) of the total estimated midyear population of continental United States. Besides the District of Columbia and 53 cities in non-registration states, returns were received from the following states: California, Colorado, Connecticut, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, New Hampshire, New Jersey, New York, North Carolina (municipalities of 1,000 population and over), Ohio, Pennsylvania, Rhode Island, Utah, Vermont, Washington, Wisconsin.

For this area the deaths and death rates from some of the most important causes of death were as follows:

Cause of Death	Deaths in Registration Area, 1911	Death Rates per 100,000 Population
Typhoid fever	12,451	21.0
Measles	5,922	10.0
Scarlet fever	5,243	8.8
Whooping cough	6,682	11.3
Diphtheria (including croup)	11,171	18.9
Tuberculosis	81,796	138.0
Cancer	41,024	74.3
Organic heart diseases	83,525	140.9
Pneumonia	52,868	89.2
Diarrhea, enteritis (infants under 2 years)	45,868	77.4
Bright's disease and acute nephritis	57,803	97.5
External causes (accident, suicide, etc.)	63,650	3.7

Births. The registration of births is far more defective, even for areas for which the returns of deaths are believed to be substantially complete, than the registration of deaths. Reluctance to enforce birth registration laws and to prosecute physicians or midwives that fail or neglect to comply with their requirements is the chief reason for the fact that there are not in the United States, certainly were not up to within a very short time, any

birth rates—not even for a single state or city—that can be accepted as fully complete.

The first collection of births from registration sources by the Bureau of the Census was for the year 1908. From the special report on the subject it appeared that about 1,300,000 births were recorded in the United States or perhaps about one-half of the number that probably occurred. Only for a limited area were transcripts continued for the years since 1908, as shown in the following table which shows the total births returned for each year and the birth rates per 1,000 population:

Year	Estimated Midyear Population	Births Exclusive of Stillbirths	Birth Rate per 1,000 Population
1908	21,296,119	547,665	25.7
1909	21,759,262	543,185	25.0
1910	22,222,404	555,486 ¹	25.0 ¹

¹ Provisional.

The births included in the preceding table are those that occurred in the six New England states, Pennsylvania, Michigan, the city of New York and the District of Columbia, the latter coterminous with the city of Washington.

Improvement of American Registration.—A considerable part of the activity of the Bureau of the Census since its permanent organization in 1902 has been in the direction of aiding the development of better registration of vital statistics. This work has necessarily been undertaken with the coöperation of the state sanitary authorities, and numerous bills have been drafted, many of which are now represented by laws in successful operation. What are known as the essential principles of registration have been defined and adopted as "Rules of Statistical Practice," together with other regulations for the standardizing of vital statistics, by the registration officials of the United States organized as a special section of the American Public Health Association. A "model law" drafted in accordance with these requirements forms the basis of the legislation now recommended for adoption by the states.

The essential principles of registration as embodied in the model law may be briefly summarized: (1) immediate registration (deaths before interment, births within ten days and not, compulsorily, less than three days in rural districts); (2) standard certificates; (3) compulsory burial or removal permits for deaths, and some effective check on the accuracy of registration for births (by deaths of infants under 1 year, special enumeration, newspapers); (4) efficient local registrars, properly compensated (twenty-five cents) for each certificate registered and returned in compliance with law only, and so distributed that the least possible inconvenience will be caused physicians and undertakers in filing

certificates; (5) sole responsibility for registering deaths and obtaining burial or removal permit in advance of interment upon undertaker or person disposing of body and sole responsibility for registering births, within the time limit set by law, upon the attending physician or midwife (parent in absence of such attendance); (6) an efficient state registrar, with full power and responsibility to enforce the law, in direct connection with the local registrars (any county official intervening in any capacity between the state registrar and local registrars means failure of the law); (7) prompt monthly returns of the original certificates from the local registrars to the state registrar, with report of "no births" or "no deaths" when such was the case and official statement of completeness of registration or report of delinquents; (8) all this is useless to secure complete legal records and statistics of the highest practical value unless penalties are provided in the law, and those penalties are enforced.

The revised United States standard certificate of death—the initial schedule upon which the comparability of all mortality statistics depends—has displaced to a very great extent the dissimilar forms in use up to 1902, and is included in all progressive legislation. There still remains very much to be done, however, before the United States shall possess a national system of vital statistics at all comparable to those of European countries, and the question may be raised whether more direct connection and cooperation of federal and state agencies cannot be brought about for the attainment of this purpose. Congress has so far assumed merely an advisory and suggestive relation to the matter, but if the national importance of reliable vital statistics were fully appreciated, it is probable that effective measures could be put into operation.

Marriages and Divorces.—Two special investigations have been made by authority of Congress relative to the movement of marriage and divorce in the United States. The first, conducted by the Bureau of Labor, included the twenty-year period 1867–1886, and the second, the reports relating to which have recently been published by the Bureau of the Census, covered the twenty years 1887–1906. The number of marriages and divorces recorded for each year of the latter investigation, together with the rates per 1,000 population, are given in the accompanying table.

These rates are merely the crude rates. More exact comparisons may be made of the rates of persons married to persons of marriageable age or of persons divorced to married persons. The records of marriages and divorces are more complete than the records of births and deaths and cover, practically, the entire United States. For the year 1906 the population corresponding to the marriage returns was 81,458,750 or 97.4 per cent of the

MARRIAGE AND DIVORCE

Year	Marriages	Divorces	Rates per 1,000 Population	
			Marriages	Divorces
1887	482,680	27,949	8.7	0.47
1888	504,373	28,669	8.8	0.48
1889	520,937	31,735	9.1	0.52
1890	542,307	33,461	9.0	0.53
1891	562,001	35,540	9.2	0.55
1892	577,335	36,579	9.1	0.56
1893	578,457	37,468	9.0	0.56
1894	565,798	37,568	8.6	0.55
1895	598,633	40,387	8.9	0.58
1896	613,719	42,937	9.0	0.61
1897	622,112	44,699	8.9	0.62
1898	625,253	47,849	8.8	0.65
1899	650,585	51,437	9.0	0.69
1900	685,101	55,751	9.3	0.73
1901	716,287	60,984	9.6	0.79
1902	746,364	61,480	9.8	0.78
1903	785,926	64,925	10.1	0.81
1904	780,856	66,199	9.9	0.81
1905	804,016	67,976	10.0	0.82
1906	853,079	72,062	10.5	0.86

total estimated population of the country; that for divorces was practically the total population. For the years 1867–1886 marriage returns were received from only 1,728 out of 2,627 counties, while for the years 1887–1906 returns included 2,598 counties out of 2,844. Only six counties were not represented in the returns for divorces. Marriage licenses are now required in all states so that the statistical data concerning the persons married can be obtained in advance. There is considerable loss, however, in the return of marriages performed, so that it is probable that the number of marriages completely recorded is less than the actual number. For various reasons however, the statistics of marriages and divorces published by the various states are not of very satisfactory character as a rule. In the federal report it was stated that although 25 states had laws providing for the state registration of marriages, only 8 furnished figures that could be used.

See POPULATION OF THE UNITED STATES.

References: U. S. Census Bureau, *Decennial Reports* (7th, 1850 to 13th, 1910); *Annual Reports*; *Special Reports on Marriage and Divorce, 1867–1906* (1909); *Pamphlets* including "Practical Registration Methods," "Legal Importance of Registration of Births and Deaths," "Tuberculosis in the United States," "Physician's Pocket Reference to the International List of Causes of Death"; Commissioner of Labor, "Marriage and Divorce" in *First Special Report, 1867–1886* (rev. ed., 1897); C. D. Wright and W. C. Hunt, *Hist. and Growth of the U. S. Census, 1790–1890* (1900); also state and city *Registration Reports*.
CRESSY L. WILBUR.

VOLUNTEER.—Troops in the service of the United States during war are called volunteers, whether they enter by transfer from the militia of the states, by special enlistment for the war, or as substitutes or conscripts after a draft has been ordered. They receive the pay

of regular soldiers and are subject to the same discipline after they have been mustered into the Army. Militia regiments are generally reorganized before transfer, but the states have successfully assumed the right of appointing officers for volunteer regiments throughout their term of service. Generals and the staff of a volunteer army are nominated by the President; and certain regiments of United States volunteers raised directly for service in Cuba in 1898 and in the Philippines in 1899 were officered by his authority. Measures have been recommended to Congress for "raising volunteer forces of the United States in time of actual or threatened war" which would leave the appointment of all commissioned officers to the President.

Volunteer armies were created during the War of 1812 and the Mexican War under special acts of Congress, which left the states in control of the recruiting of regiments and the appointment of officers. The latter privilege was maintained throughout the Civil War subject to the action of the military authorities, who rejected incompetent officers and made promotions from the ranks during campaigns; but the War Department had to take charge of recruiting after the failure of the states to fill their respective quotas by enlistment or conscription in 1862. The states were allowed, however, to organize new regiments of recruits; and this system, by which inexperienced officers secured commands while the ranks of veteran organizations were not filled, appears to have been the capital defect of the military administration up to 1865. The state officials were also able to secure the discharge of soldiers on the plea of disability, with slight regard for the needs of the Army. Short terms of enlistment were also tolerated. Over a million veterans were serving in the Union Army in 1865, and there had been nearly three times that number of enlistments during the war. For the Spanish-American War of 1898, 200,000 volunteers were recruited, mostly by the states; but a law of 1899 authorized the enlistment of United States volunteers for service in the Philippines.

See ARMY, STANDING; BOUNTIES TO SOLDIERS AND SAILORS; CONSCRIPTION AND DRAFT; ENLISTMENT, NAVAL AND MILITARY; MILITIA; OFFICERS, MILITARY AND NAVAL; RESERVES, ARMY AND NAVY; SUBSTITUTE, MILITARY.

References: J. D. Cox, *Military Reminiscences* (1900), I, 439-441; F. V. Greene, *Revolutionary War and the Military Policy of the U. S.* (1911), 208, 292, 305-311, 316-319; E. Upton, *Military Policy of the U. S.* (1907), 137, 202, 216-222, 230-234, 248-253, 403, 434-442; U. S. War Department, *Military Laws* (1908), 192-204, 1173, *Annual Reports*, 1899-1903 (1904), 5, 6, 77, 78, 145 (1910), I, 51-53, 127, 134-144 (1912), 27, 118-135.

C. G. CALKINS.

VOTE. Partisanship can never be separated from personality. Not only the leaders but the party itself becomes endowed in the popular mind with distinct character, will and aspiration. So, too, the racial or social groups that make up the party show fairly stable qualities. "The Irish vote," for instance, denotes a race consciousness and an inheritance that influence party action. For years it was considered a valuable asset of the Democratic party. The probable effect upon the Irish vote of any proposed policy toward England must always be duly weighed. In like manner "the German vote" is influential. Its anti-slavery leaning made it a natural element in the formation of the Republican party, and largely by its help Missouri was made a free state and kept in the Union. The traditional Teutonic conservatism has also appeared in the German vote on all questions of finance and currency legislation, on which matters it has supported the Republican party. But on legislation in restriction of the liquor traffic Republicans do not always feel secure of the German vote. The Bohemian and the Italian vote has each its peculiar quality. But most important of these racial political influences is "the negro vote" which has profoundly affected political life in one half of the nation for forty years (see NEGRO SUFFRAGE). There are both disadvantages and advantages in this effort to secure the "vote" of men of different nationalities. Mr. Ford justly says:

The extent to which accidents of foreign nativity or extraction are made use of, to constitute what is known in politics as 'a vote' is generally regarded as the great weakness of American politics, but it is really a stage in the process of fusion. In order that 'the Irish vote,' 'the German vote,' 'the Italian vote,' etc., shall be recognized as such, they must display a spirit of mutual accommodation and enter into amicable relations. It is a matter of common observation in the politics of our great cities that a surprising amount of intimacy and association between people of different nationalities is thereby brought about (*Rise and Growth of Am. Politics*, p. 307).

Anything that becomes of vital interest to a large number of citizens is likely to move them as a voting mass. The influence of religion on the vote is sometimes evident. The church vote, especially the Catholic vote, is frequently a calculable factor in a given election. The Mormon vote is the determining power in Utah and is largely influential in some other western states. The temperance vote and the whiskey or saloon vote are reckoned with in drawing party platforms. "The venal vote" usually means simply that votes are in the market; but in many localities the venal vote has assumed permanent institutional characteristics (see BRIBERY).

Perhaps the most important group division in our political life is that between the rural vote and the city vote. This, indeed, was distinctly at the root of the original party division. Aristocracy, or the money power, fortified itself in the cities; democracy took to the

woods. At no time has this division been absent from our politics. Predatory wealth has sought to entrench itself in the city vote. The city *versus* the state of New York epitomizes the conflict throughout the entire history of the nation. The rural or farmers' vote has at all times shown a tendency to express a distinct purpose. Occasionally the farmers have broken loose from party organization or organized a new party. The granger laws (*see* GRANGER) and the Populist party (*see*) are noted results of such action.

See BALLOT; PARTY, PLACE AND SIGNIFICANCE OF; SUFFRAGE; WOMAN SUFFRAGE.

References: G. D. Luetscher, *Early Political Machinery in U. S.* (1903); J. Bryce, *Am. Commonwealth* (4th ed., 1910), II ch. iv; H. J. Ford, *Rise and Growth of Am. Politics* (1898), 306-8.

JESSE MACY.

VOTE, POPULAR. Colonial and Constitutional.—The term popular vote is used in the United States in several different significations, as follows: (1) a broad suffrage in contradistinction to a limited suffrage; (2) election by popular choice in contradistinction to election by a representative body; (3) a vote upon a measure, such as a constitutional amendment (*see*), a statute under the system of referendum (*see*), or on the sale of liquor (*see* LOCAL OPTION), in contradistinction to a vote by a legislature or city council; (4) more commonly, an expression of the public will by the voters, in contradistinction to votes by legislative bodies or electoral colleges.

A popular vote in the first sense is nowhere complete in any election, since various classes of the population, such as minors, prisoners, the mentally defective, and in some states paupers, are excluded (*see* FRANCHISE). In 1913 women remained excluded from the full state suffrage in all the forty-eight states except ten; and in all elections considerably less than the numbers of persons who are entitled to the suffrage actually cast their votes; so that the recognized popular vote may be that of a minority.

The colonies usually employed the direct popular vote without intermediary, but there were three methods by which actual choices could be made in a secondary fashion. (1) In the colonial governments and in municipal governments, officials were often designated by the legislatures or the city councils. (2) In Connecticut there was a system by which the voters first cast their ballots for candidates; and those having a sufficient number of ballots were again voted upon by the voters. (3) In Maryland there was a system of electing senators to the state legislatures by a board of electors, thus substituting an electoral for a popular vote.

The Federal Constitution provided for a popular vote in the choice of members of the lower House of Congress, but at the same

time introduced indirect elections for two other classes of national officers. (1) The Senators were to be chosen in no other way than by the legislatures—this being practically a continuation of the system of designating members of the Continental Congress (*see*) and the Congress of the Confederation. (2) Presidential electors were to be chosen in such manner as the states might designate; in some states regularly for many years, and in one state (Colorado) in its first election of 1876, electors were chosen by the legislature. (3) Whether the electors were chosen by legislature or popular vote, they were intermediary in the choice of President; and no popular votes could be cast for the candidates for the presidency and the vice-presidency.

Popular Vote for Senators.—The choice of Senators by the legislature dates back to a time when the state legislatures were supposed to supply the virtue and wisdom of the whole commonwealth; but there were several objections to it which grew stronger as time went on. (1) Deadlocks were frequent, and sometimes were not broken, so that a state went unrepresented, or partially represented. (2) It was much easier to corrupt a legislature than a whole body of electors; and elections were frequently purchased. (3) A type of men could command a majority in the legislature who could not under any circumstances have been elected by the votes of the electors.

For these and other reasons the Seventeenth Amendment to the Constitution (*see*) was adopted in 1913. Thenceforward Senators could be designated only in one of two ways: (1) by popular vote of the whole state; (2) by temporary appointment to a vacancy by the governor, in those states where the legislature by statute shall have authorized such appointment. Up to 1914 there had been one such popular election (in Maryland) and one appointment (in Georgia).

Majority and Plurality.—Since the theory of the popular vote is that the larger number of votes represents a majority of the people, it was frequent, though not invariable, in early colonial and federal times to require a majority of all votes cast in order to constitute an election by popular vote. Where this system obtained, particularly in Rhode Island, it often required second, and even third elections; hence now it is almost the invariable practice to accept a plurality as decisive. Where there are three or more candidates, the largest number of votes may be less than half, or less even than a third, of all the votes cast. This result has led to the suggestion of the preferential vote (*see*).

Presidential Elections.—Although the Constitution was deliberately framed so as to permit the choice by an electoral majority of a President who did not receive a majority or

even a plurality of the popular votes cast, it seems to have been the intention to make sure that no President should be elected who had not a substantial support in a considerable number of states. It was also supposed that the electors would act upon their own judgment. As early as 1796 however, most of the electors were chosen with the expectation that they would vote for a particular candidate. Where the legislature chose electors of a state they were commonly all of the same political faith, although in 1824 the New York legislature chose twenty-six electors who voted for Adams, one for Jackson, five for Crawford, and four for Clay; and split delegations were chosen by the legislatures of Delaware and Louisiana.

Even under the system of state wide popular vote, delegations may be divided. (1) The legislature of any state may, if it so direct, cause the electors for that state to be chosen by districts. Maryland followed that system to 1832; and in 1892 the legislature of Michigan districted the state and thereby divided the state. (2) With this exception, from the election of 1836 on, all the electors except those chosen by legislatures, have been chosen by general ticket; hence usually the ticket which receives a plurality of popular votes elects all the electors of that state. If, however, the vote is very close the electors having the highest vote on their ticket may overrun those having the lowest vote on another ticket. Thus in California in 1880 where in 161,000 votes the difference on the head of the ticket was only 78, one Republican elector was chosen along with five Democratic electors. The same thing happened in the same state in 1912, where two of the Democratic electors cut off the lowest two on the Progressive ticket, so that only eleven Progressives were elected.

Minorities and Minus Pluralities.—Not only may the electors of a state represent a minority of the state votes, but the majority of the total electoral vote may represent, and in many cases actually has represented, a minority of the total popular vote. Not until 1824 was the popular vote tabulated, and not until 1888 did the statistical authorities of the Federal Government publish official tables; but from figures collected by the political almanacs, and later by encyclopedias, we know that in the presidential election of 1824 Jackson had 50,000 votes more than Adams, but 40,000 less than his other three opponents together. From 1828 to 1840 the candidate who got the required majority of the electoral vote had not only a plurality but also a majority of the popular vote. In 1844 Polk had only 37,000 more votes than Clay, and the Liberty vote was enough to put him in a minority of 25,000. Taylor, in 1848, had a safe plurality, but a minority of 152,000. The election of 1856 was the first

since 1828 in which there had been more than two strong candidates, and the result was that Buchanan was in a minority of 372,000. Among the four candidates in 1860 Lincoln had 500,000 votes more than Douglas, but nearly a million less than all his opponents taken together. In 1876, though Hayes was elected by a majority of one electoral vote, he was in a minus plurality of 251,000 and a minority of 345,000. Garfield, in 1880, had only 7,000 popular votes more than Hancock, and was in a minority of 313,000. Cleveland, in 1884, had a plurality over Blaine, but as there were two lively minor parties his minority was 233,000. In 1888 Harrison was deficient by about 100,000 plurality and was in a minority of 500,000. Cleveland was elected President in 1892 though in a minority of a million—which was about the size of the Populist vote. From 1896 to 1908 the electoral and popular majorities agreed, and Roosevelt, in 1904, had a clear majority of 1,734,000. In 1912 came the most striking case of a discrepancy between the popular and electoral votes: Wilson carried 43 of the 48 states, had a clear electoral majority of 338 and a plurality of over 2,000,000; but was in a minority of 2,500,000.

Effects of the Popular Vote.—The foregoing analysis shows that most Presidents would have been elected by at least a plurality if the election had been directly popular: the only instances where the popular vote of the person elected President was less than that of another candidate are Hayes in 1876 and Harrison in 1888. Nevertheless the present electoral system relieves the tension by giving no advantage to a large state majority over a small one. In the state of Texas the regular Democratic vote is regularly from three to four times that of all other parties put together, but there is no temptation to roll up a big vote for President. In Vermont the vote was for years two or three to one for the Republicans, but there was no object in increasing that vote. On the other hand, where the votes are very close, a small popular majority may carry a great block of electoral votes—as was the case in New York where in 1884 a plurality of 1047 for Cleveland gave him the 36 votes of that state and the election; but this was balanced in 1888 when a plurality of about 15,000 turned the same state, with its 36 votes, over to Harrison and elected him. In such close votes precautions against fraud and rolling up a big aggregate are intensified.

Proposal of a Direct Presidential Election.—It would appear therefore that to substitute a direct popular vote electing by a plurality, in place of the present machinery of the electoral colleges, would in a few cases alter the result. It would, however, much intensify the situation in close total votes. At present the lie of the electoral vote can usually be known by midnight of election day, while the official count

of the popular vote may be delayed for weeks. Polk's plurality of 36,725 in 1844 probably could not have been ascertained at that time earlier than three or four weeks after the election. The count of the vote of 1888 showed only 7,018 in favor of Garfield—a figure which would have been reversed by deliberate miscounts in a few states, or perhaps even by a more accurate count. On the other hand, in all elections since 1888 the plurality of the winner has been unmistakable. The marked tendency toward getting rid of artificial methods of nominating and electing candidates sets against the present system, and if, as the figures seem to prove, the result under a popular vote would, in most cases, be the same as under the electoral vote, it is not unlikely that the system of the Federal Government will before long correspond with that of all the states, so that the President and Vice President will be chosen by direct popular vote.

See **BALLOT**; **CONVENTION, POLITICAL**; **DIRECT LEGISLATION**; **DIRECT PRIMARY**; **PARTY SYSTEM IN DOUBTFUL STATES**; **REPRESENTATIVES, ELECTION OF**; **SENATORS, ELECTION OF**; **ELECTORAL COUNT FOR PRESIDENT**; **GENERAL TICKET SYSTEM**; **MINORITY REPRESENTATION**; **PIVOTAL STATE**; **POPULAR GOVERNMENT**; **PRESIDENTIAL ELECTIONS**; **PRIMARY**; **PUBLIC OPINION AND POPULAR CONTROL**; **REPRESENTATIVE GOVERNMENT**; **SENATORS**; **SOVEREIGNTY OF THE PEOPLE**.

References: James Bryce, *Am. Commonwealth* (rev. ed. 1910), II, chs. lxxi, lxxvii-lxxxvii; W. E. H. Lecky, *Democracy and Liberty* (1896); H. S. Maine, *Popular Government* (1886); M. Ostrogorski, *Democracy and the Organization of Political Parties* (1902); A. de Tocqueville, *Democracy in America* (Reeves' trans., 1835, Bowen's trans., 2 vols. 1863); C. W. Eliot, *American Contributions to Civilization* (1897); Edmund Kelly, *Government or Human Evolution* (1900); Elisha Mulford, *The Nation* (1871); C. E. Merriam, *Hist. of Am. Political Theories* (1903); A. B. Hart, *National Ideals Historically Traced* (1907), chs. vi, viii; H. Munsterberg, *The Americans* (1904); E. Stanwood, *Hist. of the Presidency* (1898), *passim*; A. E. McKinley, *Suffrage Franchise in the Colonies* (1905); J. H. Robinson, *Original and Derived Features of the United States Constitution* (1890), 225, 230; R. B. Mosher, *Executive Register of the U. S.* (1903), *passim*; Jesse Macy, *Party Organization and Machinery* (1904), chs. vii, xiii, xxi; J. A. Woodburn, *Political Parties and Party Problems* (1903), chs. ix, xv, xxi; C. A. Beard, *Am. Government and Politics* (1910), 469-487; A. B. Hart, *Actual Government* (1903), ch. iv; list of popular votes by states in **PRESIDENTIAL ELECTIONS**.

ALBERT BUSHNELL HART.

VOTE, POPULAR, ON LEGISLATIVE QUESTIONS. Fourteen states provide for enacting laws by popular vote. Attempts, in

the absence of constitutional authorization, to refer measures to the electorate for final decision have been blocked by the courts as an unwarranted delegation of legislative power, upon the general principle that a legislative body cannot delegate its authority. Legislatures, however, not infrequently provide for a popular vote on a given measure as an extra-legal test of public sentiment. The Illinois Public Opinion Law (1901) provides that on the petition of ten per cent of the registered voters of the state the proposition which they advocate shall be placed upon the ballot at the general election as a "question of public policy." This device is sometimes called the "advisory initiative." See **LEGISLATION, DIRECT**; **LEGISLATIVE POWER, THEORY OF**; **LOCAL OPTION SYSTEM**; **REFERENDUM**. **References:** T. M. Cooley, *Constitutional Limitations* (7th ed., 1903); A. T. Lowell, *Public Opinion and Popular Government* (1913).

G. H. H.

VOTERS, ASSOCIATIONS OF. See **MUNICIPAL VOTERS' LEAGUE OF CHICAGO**; **NON-PARTISAN POLITICAL ORGANIZATIONS**; **POLITICAL CLUBS**; **TAMMANY**.

VOTERS, CHALLENGE OF. In order to prevent election frauds the parties may appoint official challengers to watch the polls and prevent illegal voting. Generally, any citizen, also, who has reason to believe the law is being violated is entitled to challenge any voter and to state his objections. Formerly challenging was the chief way of protecting the ballot, and it is still important in country districts. But in towns and cities, required registration of all voters tends to eliminate the need for challenging. In primaries where a complete system of registration has not been evolved the challenge is also used. Although registration has reduced the necessity for the services of the official challenger it has not removed the right of challenging any voter who is believed to be unauthorized to vote. See **BALLOT: ELECTION SYSTEM IN UNITED STATES**; **POLLS**. **References:** R. L. Ashley, *The Am. Federal State* (1902), 429; F. C. Meyer, *Nominating Systems* (1902), 407, 479.

J. M.

VOTERS, COLONIZATION OF. In crowded city wards colonization of voters is sometimes attempted. Groups of voters transferred from a "safe" precinct to a "doubtful" one get a show of legal residence for the few days necessary before the election. Or vagabonds and the floating population (see **FLOATERS**) from outside the city also become legal residents of a ward. More often illegal colonization is practiced: men without even this brief residence in the district are registered and voted. All these are frankly purchased for the occasion and disappear promptly upon the issue

of the contest. The same methods are also resorted to in state elections. Residents of one state are temporarily transferred across the line to help in saving their neighbors for the party. See CAMPAIGN, POLITICAL; FRAUDS, ELECTORAL. References: M. Ostrogorski, *Democracy and the Party System* (1910), 177; F. J. Goodnow, *Pol. and Administration* (1900), 29; C. E. Russell, "At the Throat of the Republic" in *Cosmopolitan*, XLIV (1907-08).

J. M.

VOTERS, REGISTRATION OF. In order that only those who are entitled to vote may do so, most states provide for the registration of voters, by the preparation of official lists of qualified electors to be used as check-lists at the polls. The necessity of such a procedure obviously varies with the size of the voting precinct and with the character, stability and homogeneity of its population. Thirty-two states provide for registration of voters. Eight insist upon the registration of voters in towns or cities of certain classes, or of a minimum population varying from 800 in North Dakota to 25,000 in Missouri. In Rhode Island non-taxpayers are required to register each year before June 30, although no election is to be held for four months thereafter. New Hampshire, Indiana, Arkansas and Texas do not require registration.

Varying Laws.—The make-up of the board of registrars and its procedure are determined largely by the political conditions of the several states—for registration is a device which can be made to serve various purposes. In states where political parties are pretty evenly matched, the boards are generally bipartisan, and their task is the compilation of the authentic voting list. Thus, in Massachusetts cities and towns, at stated times prior to an election, the board of registrars holds sessions, at which applicants may present themselves to prove that they possess the requisite qualifications for the suffrage. But for the enrollment of voters in Boston, a house to house canvass is made by the police, under the supervision of a special listing board. Rhode Island's requirement of registration only from non-taxpayers is consistent with her tax-paying requirement for the municipal suffrage, and tends to increase the relative influence of the propertied class. In New York cities of over 1,000,000, the registrars put the applicant through a minute catechism not only as to his name, age, birthplace, address and occupation, but also as to the number of the floor or room where he lives, and the name of the owner or lessee of the building; if he can write, he is required to sign his name. If he is challenged on election day, the comparison of his answers to these same questions and of his signature with the data on file affords a dependable test of his identity. These methods, introduced by the law of 1908, have

greatly reduced the evils of repeating and personation.

Southern Registration Laws.—In the South, before the recent suffrage amendments were added to the constitutions, not a few of the states had practically eliminated the negro vote by complicated or shrewdly designed registration laws. In some instances the law allowed the posting of the registration lists for so brief a time or in so inconspicuous a place, that hundreds of the less vigilant came to the polls only to find that their names had got dropped from the list. In other states, where registration closed weeks before election, and where a card of registration had to be presented at the polls, hundreds of heedless negroes could be relied upon to lose their cards or to trade them off for a trifling sum. Under the new constitutional amendments, the registrar's task has been to determine whether applicants possessed the requisite qualifications for the suffrage, and especially acute discrimination has been directed to deciding whether the would-be voter can "read the Constitution, or understand it when read to him, or give a reasonable interpretation thereof," or whether he "understands the duties and obligations of citizens under a republican form of government" (see NEGRO SUFFRAGE).

Membership of Boards.—Whether registration shall be a farce, a piece of partisan machinery, or an essential guarantee of the fairness of elections depends both upon the provisions of the registration law, and upon the men charged with its administration. The New Jersey law of 1911 has taken the lead in attempting to put registration in the hands of competent men of high repute. In each election district of the state, it provides for a "board of registry and election," made up of two members from each of the two leading parties. Men of good moral character may be nominated to the civil service commission by the chairman of the county committees of the two parties, or by petitions from five voters, each petition giving detailed information and being accompanied by a certificate as to the nominee's fitness and intention to vote for the candidates of the specified party. The persons thus named are then examined by the civil service commission to test their eyesight and power to distinguish colors, their ability to read and write, to add and subtract, their knowledge of the duties of an election officer, their health and moral character. The selection of members for the several district election boards of registry and election is made by drawing by lot slips from a box containing the names of men who have passed these examinations.

See BALLOT: ELECTION SYSTEM IN UNITED STATES: SUFFRAGE.

References: F. R. Meehem, *Law of Public Offices and Officers* (1890), 149-156; G. W. McCrary, *Am. Law of Elections* (4th ed.,

1897), 93-185; M. H. Throop, *Law Relating to Public Officers* (1892), 132-138; W. H. Michael, "Elections" in *Cyclopedia of Law and Procedure* (1905), XV, 302-309.

GEORGE H. HAYNES.

VOTES, CANVASS OF. In the United States the phrase "canvass of votes" is used in three distinct senses. (1) In the first place, it may mean the going about in a district and soliciting votes by house to house visitation, and personal interviews. In some states to an increasing extent the canvass is being conducted by mail. Thus, in Oregon, where this system is most highly developed, the individual voter is not only flooded with newspapers, containing editorials, speeches, and paid political advertisements, and with personal and party appeals, but the state itself provides him with a campaign-book, setting forth all the issues of the pending election, accompanied by arguments for and against candidates and measures. In such a city as New York, there is a political hierarchy, running down from the state committee through the county executive committee to the election district captain," who stands or falls as he succeeds or fails in getting out every voter of his party both on registration days and at the elections. Tammany Hall (*see*) owes its power to the perfection of its organization for doing this work, and to the skill it shows in ingratiating itself into the social and economic life of those whom it seeks to influence.

(2) In the second place, the canvass of votes means the careful examination of the chances in a prospective election and the forecast of its results. Party managers and editors are alert for every clue which may indicate how the gusts of popular opinion are veering. Straw ballots are taken, influential citizens are interviewed, endorsements are secured and appraised. But the most eagerly sought basis for the forecast comes from the election district captains in great cities. It is a part of their task to get close to the individual voter, to study his peculiarities, and to find out his preferences, before every primary contest. An organization like Tammany meets with few election surprises.

(3) In the third place, canvass of votes means the collating and summarizing of the results of an election. When the polls are closed, the count of ballots is made by the local canvassing board—called by different names in different states. Upon the board equal representation is usually given to the two leading parties, so that, in the absence of collusion, an honest count may be assured by their vigilance in the interest of their respective parties. It is the established doctrine that in the absence of a specific grant of power authorized by the constitution, the duties of county and state canvassing boards are wholly ministerial. Theirs is almost ex-

clusively an arithmetical task—to count the returns. They have no power to go behind the returns and inquire into the legality of votes cast, nor to throw out the votes of a district in which fraud is alleged. The board's determination of the persons elected is *prima facie* evidence only of their election. An aggrieved candidate or party may still contest the validity of the election.

See BALLOT; CAMPAIGNS, POLITICAL; ELECTION RETURNS; ELECTION SYSTEM IN THE UNITED STATES; ELECTIONS, CONTESTED; RETURNING BOARDS.

References: G. W. McCrary, *Am. Law of Elections* (4th ed., 1897), ch. viii., 186-242; F. R. Meehem, *Law of Public Offices and Officers* (1890), 207-212; M. H. Throop, *Law relating to Public Officers* (1892), 153-159; W. H. Michael, "Elections" in *Cyclopedia of Law and Procedure* (1905), XV; T. M. Cooley, *Constitutional Limitations* (7th ed., 1903).

GEORGE H. HAYNES.

VOTING. See BALLOT; SUFFRAGE.

VOTING, ABSTENTION FROM. See VOTING, COMPULSORY.

VOTING, COMPULSORY. A mere plurality of those voting decides most contests in America. Elections are rare in which victory might not have been turned into defeat, had the stay-at-homes voted. In the presidential election of 1900 the total vote was 13,960,000—only 74 per cent of the possible vote. When more than a fourth of the electors are absent or silent, the election yields a very inadequate expression of public opinion. Compulsory voting—already in operation in Belgium, Austria, and Spain—is often advocated as the means for securing a convincing expression of the people's will. Furthermore, if voting were made compulsory, it is urged that party managers and candidates would be spared an enormous amount of work and money, often verging upon corruption, now put forth to get out the vote, and that an end would be put to one of the most pernicious forms of bribery, the paying of voters not to vote.

Reasons for Abstention.—These arguments in favor of compulsion rest upon the assumption that abstention from voting is for the most part both voluntary and blame-worthy. But in 1900 many were debarred from voting by tax qualifications. Over 300,000 men of voting age were shut out as paupers, prisoners, insane, or as lacking the educational tests required by some states. Change of residence shortly before election may have prevented two voters in a hundred from voting, and as many more may have been kept from the polls by their employment, such as sailors, railroad employees, students, traveling men; 600,000 of the presumptive voters were past seventy, and the disabilities of age must have kept a large

proportion of them at home. Sickness would account for the absence of thousands of other men. Accident, and mistakes as to registration and election procedure cost many their votes. In the South, hundreds of thousands of negroes were kept from the polls by laws and practices deliberately adopted to produce that result. This one cause goes far toward accounting for the drop in the proportion of actual to presumptive voters from 81 per cent in 1880 to 74 per cent in 1900. If account be taken of these various groups of absentees, it has been estimated that negligence is to be imputed to not more than one in six of the stay-at-home voters in that election.

Increasing Proportion.—Moreover, the evidence of statistics is clear that, excluding such abnormal interference as the disfranchising of the negroes, an increasing proportion of the population participate in elections. In the exciting contest in Massachusetts over the adoption of her constitution in 1780, only one in 25 of her population voted; in the state election of 1910 the number rose to almost one in seven.

Remedies.—Illinois' lead has been followed by one or two other states in penalizing stay-at-homes by requiring that jurymen be drawn first from the non-voters' list. But it is of doubtful justifiability to make those who have been negligent of one civic duty exceptionally eligible for the paid performance of a more responsible public service. The most logical penalty for non-voting is disfranchisement until the offender purges himself by the payment of a fine. But it must be remembered that usually a large majority of the non-voters are kept from the polls through no fault or choice of their own. Often, too, conscientious voters, faced by an unworthy nomination in their own party and unwilling to join their opponents, have made their rebuke of party leaders most effective by simply abstaining from voting. Even this form of compulsory voting would therefore do injustice to many, and impair needed discipline of bad leadership. The publication of the list of non-voters might have a salutary effect. Beyond that, it is doubtful if the law should put pressure upon the electors.

The cure of avoidable abstention from voting lies in making voting interesting, in persuading the voter that his ballot amounts to something. Direct legislation (*see*) in Oregon calls out a large vote. Direct primary (*see*) laws in many states have quickened the voters' interest by putting in their hands the selection of candidates; but, in states where one party is supreme, the result has been to cut down the percentage of votes cast at the election, when the whole issue has already been settled in the preliminary contest over choosing candidates.

See BALLOT; ELECTION SYSTEM IN UNITED STATES; SUFFRAGE.

References: E. M. Shepard, *Compulsory Voting* (1891); A. B. Hart, "The Exercise of the Suffrage" in *Pol. Sci. Quart.*, VII (1892), 307-329; F. W. Holls, "Compulsory Voting" in *Am. Acad. of Pol. and Soc. Sci., Annals* (April, 1891), 586-614; J. W. Garner, *Intro. to Pol. Sci.* (1910), 500. GEORGE H. HAYNES.

VOTING, CUMULATIVE. A system of voting at elections under which the elector has as many votes as there are persons to be elected to a given office, and can give them all to one candidate or distribute them as he pleases. See MINORITY REPRESENTATION; PROPORTIONAL REPRESENTATION. G. C. S.

VOTING, INDEPENDENT. Within the party independent voting is contrasted with regular, or partisan voting. Any departure from the extreme partisan ideal, according to which all the members of a party always and everywhere vote the straight party ticket, implies independent voting. Motives for such action are various. Often it is for the sake of party discipline, warning party managers of the trend of public opinion and sometimes resulting in wholesome changes in the issues or the men brought forward. The conscientious, independent attitude of a portion of the party constituency, ready to sacrifice the party for the sake of moral or political principle, is the best preservative of party purity. Its value has even received official party recognition, as when, for successive years the Republican platform for the state of Iowa contained a clause, known as "the bad man plank," pledging the party members to defeat at the polls any unworthy candidate that a party convention should nominate. A growing sentiment is apparent in favor of independent voting, especially in municipal elections. See BALLOT, AUSTRALIAN; LOYALTY TO PARTY; NON-PARTISAN POLITICAL ORGANIZATIONS; REGULARITY IN POLITICS; THIRD PARTIES. **References:** J. Bryce, *Am. Commonwealth* (1910), II, 320-337; C. A. Beard, *Am. Government and Politics* (1910), 703-705; J. S. Clarkson, "The Politician and the Pharisee" in *North Am. Review*, CLII (1891), 613-623; D. B. Eaton, "Parties and Independents" in *ibid.*, CXLIV (1887), 549-564.

JESSE MACY.

VOTING IN LEGISLATIVE BODIES. **Process.**—Votes in American legislative bodies are taken in several ways, all members who are present being legally but not actually required to vote unless excused. (1) The presiding officer asks for the ayes and noes, deciding by the sound. (2) The members rise, the presiding officer and clerk counting the affirmative and negative. In Congress this is called a division. (3) When demanded, tellers are appointed, and those on each side are counted as they pass the tellers. In the House of

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Representatives. 40 members may call for tellers. Two tellers are stationed in the main aisle of the hall and the members, first affirmative and then negative, pass between them. (4) Yeas and nays are the most formal means of voting ordinarily in use. The names are called alphabetically, the vote of each member being recorded. When the entire list has been called the clerk calls again those names to which there was no response. No debate is allowed, but any member may change his vote before the announcement is made. In Congress the yeas and nays may be demanded by one-fifth of the members (Const. Art. I, Sec. 1, ¶ 3). They are not required even on constitutional amendments before Congress. The yeas and nays are the ordinary method of voting in state legislatures, unless the ayes and noes are deemed sufficient. (5) Voting may be by show of hands or (6) by ballot. The last use of the ballot in the House of Representatives was in 1868.

Requirements for Majority.—By American law a majority in a legislative body is a majority of those present. This is the usage in the houses of Congress and in some of the eastern state legislatures, but in a majority of the states no bill is passed unless accepted by a majority of all elected to the house. Special majorities are required for special measures, such as constitutional amendments (*see*), and ratification of treaties (*see*).

See DIVISIONS; QUORUM.

References: *Rules of the House of Reps.* (1910), §§ 494-504, 622-625, 648-652, 748-752.

R. L. A.

VOTING IN THE AIR. Said of a voter who casts his ballot for a candidate who has no chance of being elected, particularly of one who votes a third party ticket; also applied (by William M. Evarts, 1879) to "scratching" (*see*) a straight ticket.

O. C. H.

VOTING MACHINES. Despite the important reforms in voting methods effected by the adoption of the Australian ballot (*see*) there yet remained many opportunities for mistakes, for fraud, and for contests over the count. For Americans it was natural that the next recourse should be to mechanical devices to ensure speed, secrecy and accuracy. Inventors and promoters were not slow to see that if the use of voting machines became universal or even general, the financial returns from the one that proved most successful could not fail to be enormous. Within a few years more than 100 patents have been issued for voting-machine devices; most of these have been assiduously acquired by two or three corporations. At the present time four or five different voting machines are on the market.

The introduction of voting machines has encountered not a little resistance. In Massachusetts, where they were used in some cities

as early as 1896, they had to be given up because of a ruling of the supreme court that they did not comply with the constitution's requirement that certain state officers be elected by "written ballots." In 1911, however, this obstacle was removed by a constitutional amendment. In New Jersey cities, voting machines were extensively used for several years, but in 1911 this use was stopped by a law supported mainly, it is alleged, by men who were too ignorant or careless to vote without assistance in preparing their ballots and by those who wished either to sell or buy votes. Opposition to voting machines has been grounded on the fear that their complicated mechanism would get out of order by accident or by manipulation; that their cost—from \$500 upwards—would represent an enormous initial expense; and that charges for repairs and storage would prove a burden.

In their favor the following claims are made: they insure secrecy of the ballot; they discourage the buying and selling of votes; they make impossible defective ballots which now are often numerous enough to determine the result; the count is absolutely accurate, and the results are known at once; the records cannot be tampered with, and election contests and recounts are eliminated. Despite their large initial cost, in different cities it has been estimated that they have effected savings amounting to a yearly return on the investment of from 10 to 45 per cent; for where they are used, far fewer voting precincts are needed, the costs for election officers and ballot clerks are greatly reduced, the printing of thousands of ballots is avoided, and the upkeep of much voting paraphernalia is made unnecessary.

An act of the Fifty-fifth Congress authorized their use in federal elections. They have been introduced in 15 or more of the states, including many of the largest, *e. g.*, New York, Illinois, Wisconsin, and California. They have been used with satisfaction in at least 29 New York cities and towns. For Rochester, a city of 218,000 inhabitants, 92 voting machines are required. They have been in use there for more than a decade and are reported to give thorough satisfaction.

See BALLOT; POLLS; SUFFRAGE.

References: A. C. Ludington, *Am. Ballot Laws, 1888-1910* (1911); Conf. City Gov., *Report* (1910), 504-8. GEORGE H. HAYNES.

VOTING PRECINCT. See PRECINCT, ELECTORAL.

VOTING, PREFERENTIAL. Although the majority vote in regular elections has been abandoned in America, except in a few cases, the recent spread of the idea of the direct primary (*see* PRIMARY, DIRECT) has produced legislation which opposes nomination by a bare plurality when many candidates are in

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the field. One form of legislation adopted in five states and a few cities is called preferential voting, this being an adaptation of a method in use in Australia. The primary ballot provides that the voter may designate his first choice and his second choice for each office. In the Idaho system, which requires a majority for the nomination of all candidates, the votes may indicate their first choice only, or both first and second choices. If no one receives a majority of the first choice votes cast by members of his party for any office, both the first and second choices are counted for that office. In the Washington direct primary system, every voter must designate both his first and his second choice for any office for which his party has four or more candidates, but he does not state his second choice if there are fewer than four candidates. If there are four or more candidates and no one has 40 per cent of the first choice votes cast, second choices are added to the first. Still another form of preferential voting has been adopted by Wisconsin and Minnesota. This permits the designation of second choices, but, if no candidate has the required number of first choice votes for nomination, the candidate with the smallest first choice vote is discarded. The votes that were cast for this candidate as first choice are then distributed among

the candidates whom these voters designated as their second choice. This process is continued until one person has the number of votes required for nomination. In Oregon, the voters may designate first, second, third, and other choices for two state offices. If none has a majority of first choices, the second choices are added, with third choices if necessary to give one candidate a majority. Owing to the large number of candidates who frequently seek nomination, some minimum percentage of the total vote may be necessary in order to avoid the selection of minority candidates by absurdly low votes. All of these systems of preferential voting are exceedingly complicated, like systems of proportional representation (*see*). The difficulty is being met in some southern states by second elections. In some states it is being avoided by organized party effort; in still others it has been disregarded entirely. See PRIMARY, DIRECT; PROPORTIONAL REPRESENTATION. **References:** E. M. Bacon and A. Morrill, *Direct Elections and Law Making by Popular Vote* (1912), 114-130; R. Tyson, "Various Voting Systems" in *Arena*, XXXIX (1908), 59-64, *Preferential Voting* (1911); S. G. Lowrie, "Second Choice Nominations" in *Am. Pol. Sci. Review*, V (1911), 600-604; W. Hoag *et al.*, in *Equity Series*, July, 1910. R. L. ASHLEY.

W

WADE, BENJAMIN F. Benjamin F. Wade (1800–1878), a native of Massachusetts, was admitted to the bar in Ohio in 1827. In 1837–39 and 1841–43 he was a Whig member of the state senate of Ohio; from 1847 until 1851 he served as a state district judge; and in 1851, through a coalition of the Free Soil and Whig members of the legislature, he was elected to the United States Senate, where his service was continuous from 1851 to 1869. Wade was an uncompromising opponent of slavery. Upon the outbreak of the Civil War he advocated the emancipation and arming of the slaves, the execution of the Confederate leaders, and the confiscation of the property of persons engaged in rebellion. To the conciliatory attitude and moderate measures of the Lincoln administration he was unalterably opposed, and when, in 1864, the President pocketed the Wade-Davis bill, under whose terms the reconstruction of the southern states was to be thrown into the hands of the radical majority of Congress, Wade joined Davis in the promulgation of a vituperative manifesto in which it was alleged that Lincoln was neither honest in his purposes nor fit to be continued at the head of the nation. As an advocate of congressional reconstruction, Wade became one of the most relentless of President Johnson's opponents; and, despite the fact that in 1867 he had been elected president *pro tem.* of the Senate, he voted with the minority of his colleagues for the President's impeachment and thus came within one vote of being President. See IMPEACHMENT; REPUBLICAN PARTY. References: J. G. Riddle, *Life of Benjamin F. Wade* (1886); J. F. Rhodes, *Hist. of the U. S.* (1893–1906), IV, ch. xxiii; J. G. Nicolay and J. Hay, *Abraham Lincoln* (1890), IX, ch. ii; *Cong. Globe*, 38 Cong., 1 Sess., App. F. A. O.

WADE-DAVIS MANIFESTO. An answer to President Lincoln's explanation of his refusal to sign the Wade-Davis Reconstruction Bill, from Senator Benjamin F. Wade and Representative Henry Winter Davis, published in the *New York Times* of August 5, 1864, bitterly attacking the President for his "grave executive usurpation," and declaring "that the authority of Congress is paramount." See WADE, BENJAMIN F. O. C. H.

WAGE-EARNERS MADE PREFERRED CREDITORS. Practically every American state and territory makes wage-earners pre-

ferred creditors in the settlement of estates of deceased employers and in cases of bankruptcy, assignments, executions, etc.; and debts due for labor rendered or materials furnished must be satisfied in full next after taxes and government claims. Such laws, although variously interpreted, are constitutional and apply to all wages due at the time, whether the claimant has left the service or not. See LABOR, PROTECTION TO; MECHANICS' LIEN. Reference: C. A. Jansen, *Mechanics' Lien Law of New York* (1910). C. F. G.

WAGES. Classification.—According to method of payment, wages are of two kinds: (1) time wage, or wage paid for a given period of labor such as by the hour, day or month; (2) piece wage or wage paid for the performance of a definite piece of work. Variations and combinations of these two main forms, such as task wage, premium or progressive wage, collective wage, etc., are quite numerous. From another point of view, wages are to be classified as: (1) real; (2) nominal, or money wages. Characteristically, the "wages" of a commercial community are paid in money (money wages). The things which the money will purchase are the real wages. This distinction is of vital importance when comparing wages over long periods of time. If a change has taken place in the purchasing power of money, a change in money wage will not necessarily mean a corresponding change in real wage. The economist generally uses the term "wage" in the sense of "real wage."

Wages, in economic theory, form a part of the value (*see*) problem, the particular issue here involved being the evaluation of the services of labor—the determination of the "distributive share" going to labor. The word labor is here used in a wide sense and includes the services of professional men, etc., as truly as it does those of street cleaners.

Historical.—Historically viewed, the story of the development of the theory (or better, the theories) of wages would be a narrative of disputations. The doctrine most widely accepted from 1820 to 1870 was the so-called wages fund theory. John Stuart Mill may be regarded as having given final form to the doctrine. As he saw it, it was a demand and supply doctrine. On the demand side there was a fund (a portion of circulating capital) devoted to paying labor; this was divided among the number of laborers to be paid, these laborers constituting the supply side. In the

long run, standard of living would be the main determinant of supply by affecting the increase of population. Mill thus arrived at an "average wage" which could be altered only by changing either the amount of the fund devoted to paying labor or the number of laborers to be paid. All other methods would be futile. He rounded out his theory by explaining why wages vary from employment to employment. The wages fund doctrine was, however, overthrown, at least in its old form, and so thoroughly overthrown that Mill himself repudiated it.

Marginal Productivity.—The wage fund theory, the Ricardian doctrine of rent, and the Malthusian principle of population, gave to socialist writers the "iron law of wages" which held that by the very doctrines of the orthodox economists the laborer was doomed never to rise above a mere existence level. The drift of present day doctrine has been toward a "productivity" theory of wages. Modern doctrine would repudiate the method of first computing an average wage and then accounting for variations therefrom, for precisely the same reasons that it would repudiate an attempt first to compute an average price of goods and then account for variations therefrom. The average, if there is to be one, must be computed after the wages of each laborer (in the broad sense) or class of laborers has been determined. The determination of the rate of wages of each laborer, or class of laborers, is determined by "marginal productivity;" i. e., individual wages for a given grade of labor will correspond to the amount which is added to the product by the effort of the marginal laborer, the term marginal laborer here meaning not the least competent laborer but the laborer of normal capacity employed under the conditions least favorable for his productiveness. The whole theory rests finally upon a law of diminishing returns (*see*). It assumes that, if a given quota of the other factors of production and a given number of laborers be had, a certain amount of product will result. If one more laborer is added, other things remaining the same, there will be an increase of product but not a proportional increase. Thus is found the product which can logically be ascribed to this laborer, and this is termed the "marginal productivity" of each of the laborers in that group. It follows that with an increased supply of laborers, other things remaining the same, wages will fall because marginal productivity will be diminished; with a diminished supply of labor, other things remaining the same, wages will rise because marginal productivity will be increased.

Demand and Supply.—This marginal doctrine has its critics and some writers prefer to adhere to a demand and supply theory of wages, though it may be said in passing that a demand and supply theory is not necessarily

opposed to the marginal productivity theory. The two theories may become merely different ways of stating the same thing. An analysis of the demand and supply statement would proceed somewhat as follows. The demand for labor is a derived demand—derived from our demand for consumable goods. It is a joint demand, for labor is characteristically demanded in connection with other factors of production such as land and capital. It is a composite demand, for labor is demanded for many purposes. It is an elastic demand since the demand for goods is elastic. It is a demand which is affected by the principle of substitution, for, to a considerable extent, other factors of production, notably capital, may be substituted for labor. On the supply side it is largely a matter of: (1) the number, (2) the abilities, of the persons who work. This involves a consideration of the laws of population and of all factors affecting the efficiency of individuals such as health, strength, mental qualities, moral qualities, social conditions, period of life, expense of training, etc., etc.

See DISTRIBUTION, ECONOMIC; SOCIALISM.

References: H. J. Davenport, *Value and Distribution* (1908); E. Cannan, *A Hist. of the Theories of Production and Distribution in English Political Economy from 1776 to 1848* (1893); T. N. Carver, *The Distribution of Wealth* (1904); R. H. I. Palgrave, "Wages" in *Dictionary of Political Economy* (1899); J. K. Ingram, *History of Political Economy* (2d ed., 1907); L. H. Haney, *Hist. of Economic Thought* (1911); A. Marshall, *Principles of Economics*, (6th ed., 1910); J. B. Clark, *Distribution of Wealth* (1902); F. W. Taussig, *Wages and Capital* (1899).

L. C. MARSHALL.

WAGES, REGULATION OF. Doctrine of Self-Interest.—The adjustment of wages has been left in the United States almost wholly to private agreements between employers and their workmen. Self-interest and the necessities of competition dictate that employers shall endeavor to keep wages down as low as possible. As to the time and manner of payment they favor the system which enables them to produce most cheaply. The workmen on their side try to get the highest wages they can secure, and to this end they often act through labor organizations (*see*).

In struggles between employers and their workmen the general public is the third party which pays the cost of all adjustments reached and, as consumer, is interested in securing as low a cost of production as possible. On the other hand the general public is, to a great extent, composed of wage-earners, who have to share the burdens imposed by their class.

Between these conflicting interests the attitude of the general public has varied with the social and political importance of the wage-

earners, and with the particular question that was uppermost.

Doctrine of State Regulation.—Most concretely it has been expressed in new legislation. Formerly, when the wage-earner was without political rights or influence, employers found no difficulty in securing legislation which enabled them to get labor at a cheap cost. The time, however, has gone for maximum wage (*see*) legislation, and for laws prohibiting combinations of workmen to increase their wages. It is organized labor which is today the aggressor in seeking legislation upon wage questions. Through legislation it can coerce the employer whom it cannot reach through strikes.

As against this must be placed the fact that most legislation upon wage matters has been held invalid by the courts. This action has been taken upon the ground that such legislation violates the freedom of contract of employers and workmen.

In spite of this quite a mass of wage legislation has been placed upon our statute-books. Most voluminous is that which is designed to secure to laborers the full pay earned. The earliest laws adopted were those giving workmen a prior lien for wage debts due them upon the products which they have helped to create. These have since been supplemented in many states by making stockholders personally responsible for the wage-debts of corporations. These have generally been sustained by the courts.

Disallowance of Wage Laws.—A mass of other legislation directed toward the same end, prohibiting employers from being interested in company stores (*see* STORE PAY) or requiring that payments made in scrip redeemable at such stores shall be exchanged for lawful money upon demand, have been very generally adopted, but have been held unconstitutional. The same is true of the laws of coal-mining states requiring that coal shall be weighed before it is screened. The laws enacted in a few states which prohibit employers from fining workmen because of imperfect work have likewise been held invalid. So, also, have most of the laws, answering a somewhat different purpose, which require that wage payments shall be made weekly or monthly. On the other hand, the laws which provide that all wages due must be paid at the time of discharge, have more generally been sustained. Wage exemption laws exist in nearly all states, protecting the laborers' wages to a limited extent against garnishment for debts owed by him.

Government Wage Scales.—Establishment of a scale of wages by law has never been attempted in the United States, save in reference to public work. The various governments employ more hands than any one private employer. The view has prevailed in this country that the public should be a model em-

ployer. Either by statute, or more commonly through practice, higher wages have prevailed in governmental than in private employment. This has enabled private contractors to do work cheaper for the public than the government can. To offset this, a few states have passed laws to the effect that contractors upon public work must pay the prevailing rate of wages. The principle of such legislation has been sustained by the Supreme Court, after being condemned in a New York decision. Its greatest value from the standpoint of the laborer, lies in the fact that it virtually compels contractors upon public work to pay the prescribed scale even when engaged upon private jobs.

See ARBITRATION OF LABOR DISPUTES; BUSINESS, GOVERNMENT RESTRICTION OF; CHILD LABOR; LABOR BUREAU; LABOR CONTRACTS; LABOR, HOURS OF; LABOR ORGANIZATIONS; LABOR, PROTECTION TO; LABOR, RELATION OF THE STATE TO; LABOR, WOMEN'S, LEGISLATIVE CONTROL OF; MINIMUM WAGE; UNEMPLOYMENT.

References: U. S. Commissioner of Labor, "Labor Laws of the U. S." in *22d Annual Report* (1907); L. D. Clark, "Labor Laws Declared Unconstitutional" in U. S. Bureau of Labor, *Bulletin No. 91* (1910), 927-47; G. G. Groat, "Eight Hour and Prevailing Rate Movement in N. Y." in *Pol. Sci. Quart.*, XXI (1906), 414-33; S. Nearing, *Wages in the U. S., 1908-1910* (1911); *Am. Year Book*, 1910, 431, 402, 406, 423, *ibid*, 1911, 360, 368, *ibid*, 1912, 130.

J. R. COMMONS.

WAIVER. The surrender or abandonment of some right or privilege, or the refusal or failure to take advantage of some defect or irregularity or forfeiture by another person. As a legal term, it is most frequently used to denote the refusal to take advantage of irregularities or other defects in the proceedings of a trial, or of breaches of contracts, or of covenants in leases.

H. M. B.

WAKE ISLAND. An uninhabited rocky islet, about one square mile in area, situated on the direct route between the Hawaiian and the Philippine Islands, about 2,000 miles west of Hawaii and 3,000 east of the Philippines. It was taken possession of by Commander Taussig, of the U. S. S. *Bennington*, January 17, 1899. Its only value lies in its possible use as a cable station between Honolulu and Manila. **Reference:** J. B. Moore, *Digest of Int. Law*, I (1906), 555.

G. H. B.

WALKER, ROBERT J. Robert J. Walker (1801-1869), a native of Pennsylvania, was one of the ablest of American Cabinet officers during the middle period. He began the practice of law in Pittsburgh in 1822, but in 1826 removed to Mississippi. Prior to 1838 he was a slaveholder, but in that year he liberated

his slaves and thereafter he continued a consistent advocate of the policy of gradual emancipation. From 1836 to 1845 he sat in the United States Senate as a Unionist Democrat. As an expansionist, he advocated the annexation of Texas. Throughout the Polk administration (1845–1849) Walker occupied the post of Secretary of the Treasury and it was at this period of his career that his public services were most notable. He drafted the bill by which was created the Department of the Interior, financed the Mexican War, and, December 3, 1845, presented an elaborate treasury report which is regarded commonly as the most forceful attack upon the protective system that has ever been made in an American state paper. The so-called Walker tariff of 1846 was based upon this report, and indeed was framed largely by Walker himself. In 1857 Walker was appointed by President Buchanan governor of the territory of Kansas. Rather than countenance the Lecompton Constitution (*see*) he resigned, although subsequently he was influential in procuring the passage of the English Bill. During the Civil War he remained loyal to the Union and, in the rôle of financial agent, rendered valuable service in Europe. **See** DEMOCRATIC PARTY; KANSAS; TARIFF LEGISLATION, FRAMING OF **References:** G. W. Brown, *Reminiscences of Governor R. J. Walker* (1902); E. Thayer, *Kansas Crusade* (1889); F. W. Taussig, Ed., *State Papers and Speeches on the Tariff* (1892); E. Stanwood, *Am. Tariff Controversies* (1903), II, ch. xii; R. J. Walker, *Am. Slavery and Finances* (1864). F. A. Ogg.

WALKING DELEGATE. The “walking delegates” is the business agent of local unions in the building trades. He goes about from building to building to see that union rules are not being violated by contractors, and has power to call instant strikes on his own initiative. This concentration of power in the hands of the “walking delegate,” with its opportunities for graft, has earned him much public reproach. The salaried organizers of other unions, also, are frequently referred to as “walking delegates,” but they have not such extensive power as those of the building trades. **See** LABOR ORGANIZATIONS; STRIKES. **Reference:** J. Clarkin, “Daily Work of the Walking Delegate” in *Century*, XLV (1904), 298–304. J. R. C.

WAR, CARRYING ON. **Unauthorized Hostilities.**—The Constitution of the United States reserves to Congress the power of declaring war as well as that of maintaining forces for its prosecution (Art I, Sec. viii, “11, 12, 13, 14, 15, 16”). Hostilities may be inaugurated, however, by executive authority under general or specific instructions to the commanders of troops on the frontier or squadrons abroad. Commodore Porter seized a

town in Porto Rico in 1825 under a peculiar interpretation of the instructions which authorized him to pursue pirates in foreign territory; but his action was disavowed, and he was found guilty of disobedience by a court-martial. Commodore Jones, in 1842, occupied Monterey in California under a mistaken notion that a war with Mexico had begun, but the town was restored without delay. General Jackson’s invasion of Florida in 1817 was condoned, though a committee of the Senate reported that he had “disregarded the positive orders of the Department of War, the Constitution, and laws” in raising a volunteer force without authority. In 1845 General Taylor was sent to guard the debatable western border of Texas with orders to “drive all Mexican troops beyond the Rio Grande” should invasion be attempted, employing volunteers (for whom Congress had made no provision) for incursions into the territory of Mexico. Battles having been fought under these instructions in April, 1846, the President asked Congress to “recognize the existence of war” and on May 13 he approved an act authorizing the employment of the regular forces, the militia, and 50,000 volunteers to prosecute the war begun “by the act of the Republic of Mexico.”

Civil War Methods.—In 1861 there could be no question of a formal declaration of war against the southern states; but the Constitution authorizes the use of the militia in suppressing rebellion; and 75,000 men were summoned to assist in recovering forts and other public property of the Union. The President assumed authority for increasing the regular forces and volunteers by a proclamation of May 3, reporting to Congress that by similar measures, “some of which were without any authority of law,” he had prevented the overthrow of the government; and on August 6, all his acts respecting the levy of forces were made valid to the same extent as if they had been done under the previous express authority of Congress. July 25, 1861, an act authorized the President to accept volunteers in such numbers as the exigencies of the public service appeared in his opinion to demand, up to 500,000; but no limitation on the number of troops was allowed to interfere with recruiting or the draft. Besides the inevitable criticism in congressional debates, the acts of the President, the Cabinet, and the generals in the field were scrutinized by a Committee on the Conduct of the War; which required military officers to criticize the plans of their superiors for campaigns then in progress. Whatever influence such deliberations may have had on the strategy of the Civil War, the contest had to be finished by a general-in-chief left unhampered by both the President and the Secretary of War.

Spanish War Methods.—April 20, 1898, Congress passed the Teller Resolutions (*see*) demanding the relinquishment of Cuba by the

government of Spain, and directing and empowering the President to use the Army and Navy and summon the militia to make that demand effective. Five days later, April 25, an act was passed, at the request of the President, declaring the existence of war. Congress had been invited to decide whether the United States should intervene as an impartial neutral to enforce a truce by hostile constraint upon both parties, or as the active ally of one party or the other; and it was decided that Cuba should be free and independent.

Proposed Reforms.—Measures to provide for an organized force of volunteers, not subject to the constitutional restrictions relating to the employment of the militia (*see*), are before the public. The most notable change proposed is that of placing the appointment of officers in the hands of the President, as was done in authorizing certain regiments of United States volunteers in 1898 and 1899. The carrying on of war may be hampered by short terms of enlistment, if these are authorized by Congress, and it may be obstructed by failure to provide funds for the maintenance of the forces. Reductions to a peace basis are sometimes provided for as a sequel to the conclusion of peace in acts authorizing recruiting. As Commander-in-Chief the President can order a suspension of hostilities at any time; but the consent of the Senate is required for the ratification of any formal treaty.

From the precedents of Lincoln's administration it appears that the war powers of the Commander-in-Chief are of wide political import, the emancipation proclamation of 1863 being a notable example. But from a military point of view they are less effective. Mobilization, the first essential of a vigorous campaign, has to await discussion and voting in Congress; and it is also dependent upon agencies for recruiting or drafting men, not necessary in a nation where all men of military age belong to organizations already established.

Mobilization.—Mobilization works automatically under compulsory service up to the point of filling the ranks of all the units of the active army and providing for their transportation and supply. Reserve battalions and other troops of the second or third line are allowed more time: less than a fortnight is necessary to place complete army corps in their strategic stations on the frontiers of Germany or France. Even the voluntary army of Great Britain has a scheme of mobilization for an expeditionary force of 75,000 supported by trained reserves besides militia and territorial troops for local defence. The elastic organization of navies offers the nucleus of a crew for every vessel that can be put in commission; but it is difficult to transfer trained soldiers from a regiment without impairing discipline. On the other hand, the material of the fleet is more complicated than that of

an army; and much time may be consumed in repair and equipment unless the necessary stores are collected in advance.

Concentration.—The units being completed for service, the next step is strategic concentration or employment; that is, distribution along the frontiers or coasts which are to be defended or utilized as the base of an offensive campaign. But neither a fleet nor an army can renounce offensive tactics, because the strategy of defence has to be adopted, and mobilization and concentration have to be maintained in spite of appeals for dispersed garrisons and coast-guards to abate the alarms of an unmilitary population. Distant dependencies require for their protection the immediate assumption of the offensive by an expeditionary army and a fleet capable of conveying transports through the zone of danger, and protecting the landing of troops. For such expeditions, fortified harbors at home and abroad are needed, and guarded lines of communication are an element of safety.

Invasion.—It is evident that colonial defence and the protection of commerce must fall short of compelling the enemy to sue for peace; and projects of invasion are often discussed. But leaving aside the notable advantage of the defensive in a self-providing country separated from rivals by the sea, the occupation of territory and the capture of towns are ineffective measures as long as the military power of the defense is not encountered and overthrown.

Naval Raids.—Mere raiding is unprofitable, since by the Hague Conventions, fleets may no longer threaten the bombardment of undefended towns to secure a ransom in money—the application of that penalty being limited to cases where necessary supplies are refused. Commerce-destroying has never been a decisive measure; and neutral commerce, which may cover the goods of a belligerent, is protected by the Declaration of Paris and other conventions. Technical considerations relating to coal supply, the effect of guns mounted on shore, and the probable armament of cruisers to patrol the principal trade-routes, confirm the distrust of raiding and privateering methods long felt by students of naval history.

Difficulties.—Commercial blockade, which was a principal factor in overthrowing the Southern Confederacy, cannot be maintained on any coast guarded by submarines and torpedo-boats. Military blockade to prevent a fleet from getting to sea without a battle is still a practicable operation; and that and combined operations against naval arsenals or detached possessions are the chief methods of defeating an enemy who cannot be reached by marching across a frontier. Neutral residents and traders in an enemy's country are entitled to protection as long as they refrain from assisting either belligerent; private property on shore is no longer subject to pillage;

and there is a strong movement, in which the government of the United States has been a pioneer, to apply that exemption to private property afloat, and even to relax the definition of contraband goods. Restrictions in regard to captures, the bombardment of towns, and the hospitality of neutral ports diminish the temptation to employ naval armaments in predatory operations. The advantages of the defense in a populous country, the hazard of transporting troops across the sea, and the problems of military hygiene, tend to the discouragement of projects of invasion. These technical difficulties, combined with economic reasons relating to the cost of armaments and the value of foreign commerce, lend support to the principle of arbitration and other plans for preventing wars of speculation.

See ARMY, STANDING; ARTICLES OF WAR; CONSCRIPTION AND DRAFT; COURTS MARTIAL; ENLISTMENT, NAVAL AND MILITARY; MARTIAL LAW; MILITARISM; MILITARY AND NAVAL EXPENDITURES; MILITARY LAW; MILITIA; NAVAL VESSELS; OFFICERS, MILITARY AND NAVAL; PRESIDENT, AUTHORITY AND INFLUENCE OF; VOLUNTEER; WAR POWER, CONSTITUTIONAL; WAR POWERS OF THE PRESIDENT; WARS OF THE UNITED STATES. †

References: J. de Bloch, *Future of War* (1903); F. E. Bray, *British Rights at Sea* (1911); C. Bridge, *Naval Warfare* (1907); J. Corbett, *Principles of Naval Strategy* (1911); C. von der Goltz, *Operations of War* (1896); W. R. Lawson, *Modern War and War Taxes* (1912); G. F. R. Henderson, *Science of War* (1905); A. T. Mahan, *Naval Strategy* (1911); J. D. Richardson, *Messages and Papers of the Presidents* (1899), I, 281, 512, 554, IV, 442, 470, X, 102, 147, 164, 201, 204-206; E. Upton, *Military Policy of the U. S.* (1907), 185, 196, 203, 204, 229-233; *Am. State Papers, Military* (1832), I, 681, 741, II, 99-103; *Am. State Papers, Naval* (1834) II, 144, 343-346, 424; "Declaration of London" in *Naval Annual* (1911), 163-181, 450-458; U. S. War Department, *Annual Reports* (1912), I, 76-81, 93.

G. C. CALKINS.

WAR COLLEGES. The Naval War College at Newport was founded in 1886 in order to place naval administration on a war footing and provide higher professional training for officers. Courses in tactics and strategy, illustrated by references to military and naval history, are connected with the solution of definite problems relating to hypothetical naval campaigns. Lectures in international law and political history are also delivered by eminent specialists; and the assistance of Army officers is applied to problems of coast defense. It is coordinated with the General Board of the Navy in preparing plans of campaign and measures for the preparation of the fleet for war. The course of instruction has generally

lasted four months, but it is proposed to retain part of the class of officers detailed to receive instruction throughout the year. Examinations for promotion above the rank of lieutenant include an inquiry regarding attendance at the War College. The building of the Naval War College on Coaster's Harbor Island was erected in 1890 at a cost of \$100,000. The annual appropriation is about \$30,000.

The Army War College was founded in 1900 for the direction of instruction in the various service schools of application, the extension of opportunities for study in the Army and militia, and the dissemination of military information. A new building was erected for its use at the arsenal at Washington; and regular courses of instruction and lectures are provided for a class of 20 officers, most of them majors and captains. The college is commanded by a brigadier-general, and he is assisted by 16 officers of the General Staff. The building of the college cost about \$1,000,000, and \$10,000 annually is required for its maintenance. Graduates of the college have a note to that effect attached to their names in the Army Register, a form of distinction not practiced in the Navy.

See EDUCATION, MILITARY AND NAVAL; WAR, CARRYING ON; OFFICERS, MILITARY AND NAVAL.

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C. G. CALKINS.

WAR, DECLARATION OF. See DECLARATION OF WAR.

WAR DEMOCRATS. The immediate effect of the fall of Fort Sumter, April 14, 1861, was to rally all loyal citizens in the North, regardless of party, to the support of Lincoln (*see*) and the Union cause. On the evening of that day Stephen A. Douglas (*see*) called upon Lincoln and pledged himself "to sustain the President in the exercise of all his constitutional functions to preserve the Union, maintain the Government, and defend the federal capital." The significance of his support was perceived when it was remembered that in the election, the previous November, Douglas, as the Democratic presidential candidate on a Union platform, had polled in the northern and border states, with California and Oregon, 1,304,873 votes against 1,866,452 for Lincoln. On April 19, Buchanan wrote to John A. Dix, who had been his Secretary of the Treasury from January 11 to March 4: "The North

will sustain the administration almost to a man; and it ought to be sustained at all hazards." William Sprague of Rhode Island, the only northern Democratic governor east of the Rocky Mountains, vied with his Republican associates in energy, and himself led the first Rhode Island troops to Washington. The Democratic governors of California and Oregon also responded promptly: while in New York City, which had gone against Lincoln in November by 29,000, the departure of the Seventh Regiment was attended with great enthusiasm. At Chicago, May 1, Douglas addressed a great audience in support of the administration. The death of Douglas, June 3, deprived the War Democrats of their national leader, although his place in Illinois was capably taken by William A. Richardson, a leading promoter of the Kansas-Nebraska bill (*see*).

In the first session of the Thirty-seventh Congress, convened July 4, the Democrats held no caucus for Speaker and nominated no candidate; and they joined the Republicans in voting men and money for the war. Lincoln's course in setting aside the action of Frémont, who assumed to free slaves in Missouri, contributed further to win Democratic support. The War Democrats, however, were unwilling to discredit their party by committing themselves in general to Republican declarations of policy; and although they supported the resolution declaratory of the nature and object of the war, adopted July 22, they consented reluctantly to the validation of Lincoln's military acts, proclamations, and orders, especially the suspension of habeas corpus.

In the fall elections of 1861, efforts were made by the Republicans to induce the Democrats to unite in the nomination of coalition tickets, on platforms limited to declarations in favor of the Union and the prosecution of the war. Daniel S. Dickinson, a supporter of Breckinridge in 1860, headed a coalition ticket in New York and carried the state by 107,000. David Tod, a Douglas Democrat, was elected governor of Ohio on a coalition ticket by 55,000. Elsewhere the suggestion of union was rejected, and regular Democratic candidates were nominated on platforms which, while approving of the war, criticized Lincoln's habeas corpus policy.

The issuance of the emancipation proclamation, in September, 1862, made it increasingly difficult for the War Democrats to maintain an independent attitude. Many Democrats insisted that the war was no longer being fought for union, but for abolition; and "the Constitution as it is and the Union as it was" became a slogan. The fall elections went against the Republicans, although the diminished following of War Democrats generally voted with them on what were called Union tickets. In 1863 the Union party of Ohio nominated John Brough, a War Democrat, for governor, secured such stalwart Republicans as John Sherman

and Zackariah Chandler to speak for him, and elected him by a majority of 101,000. The nomination of Andrew Johnson for Vice-President, in 1864, was the climax of the Republican policy of fraternization. When the regular Democratic convention at Chicago, August 29, nominated McClellan and Pendleton, it insured a division of the War Democrats, and held many of them to party loyalty notwithstanding McClellan's repudiation of the platform. With the election of Lincoln the War Democrats ceased to exercise independent influence either in politics or in legislation.

See DEMOCRATIC PARTY; REPUBLICAN PARTY.

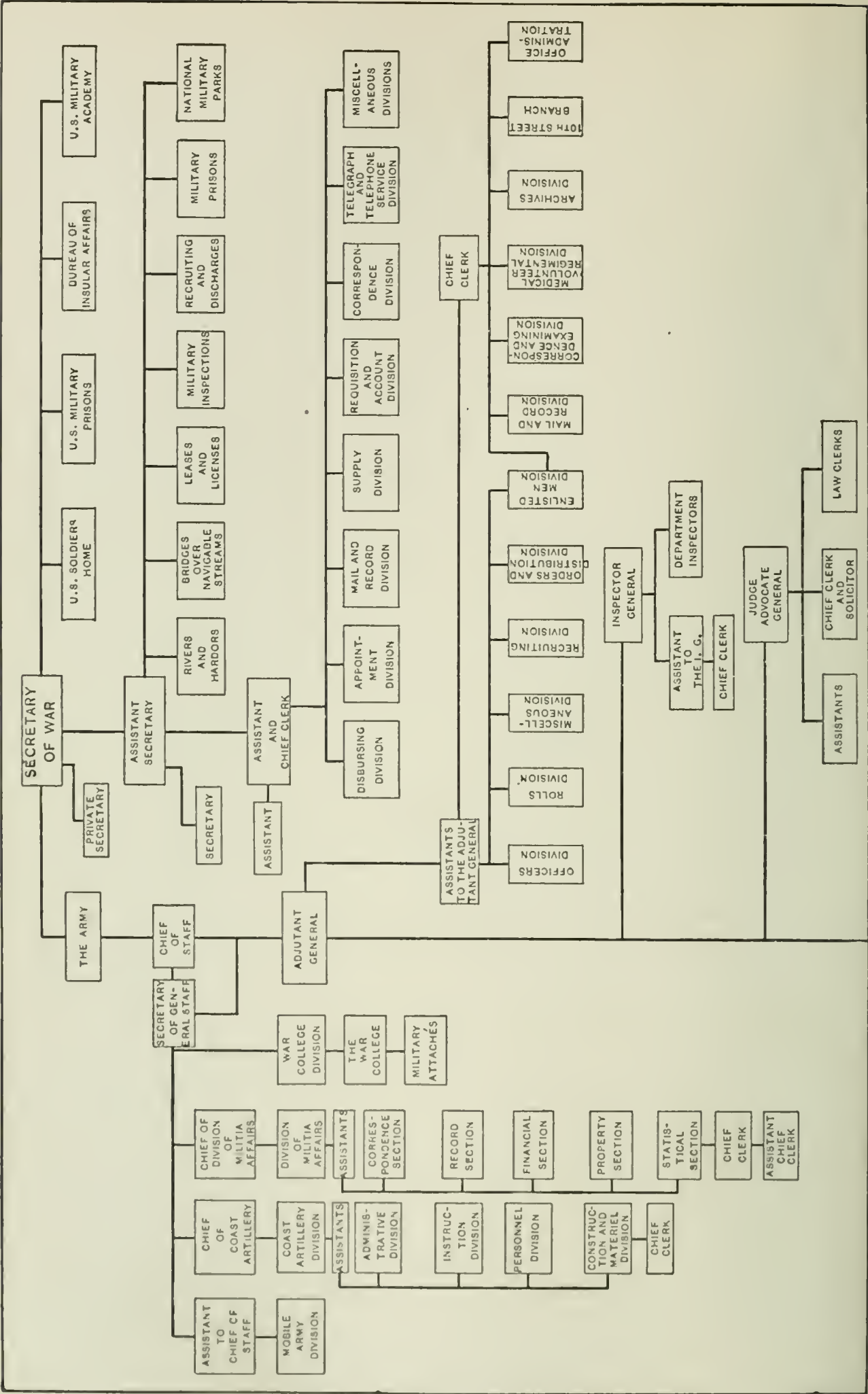
References: J. F. Rhodes, *Hist. of the U. S.* (1893-1905), III, IV, *passim*; E. Stanwood, *Hist. of the Presidency* (1898), ch. xxii.

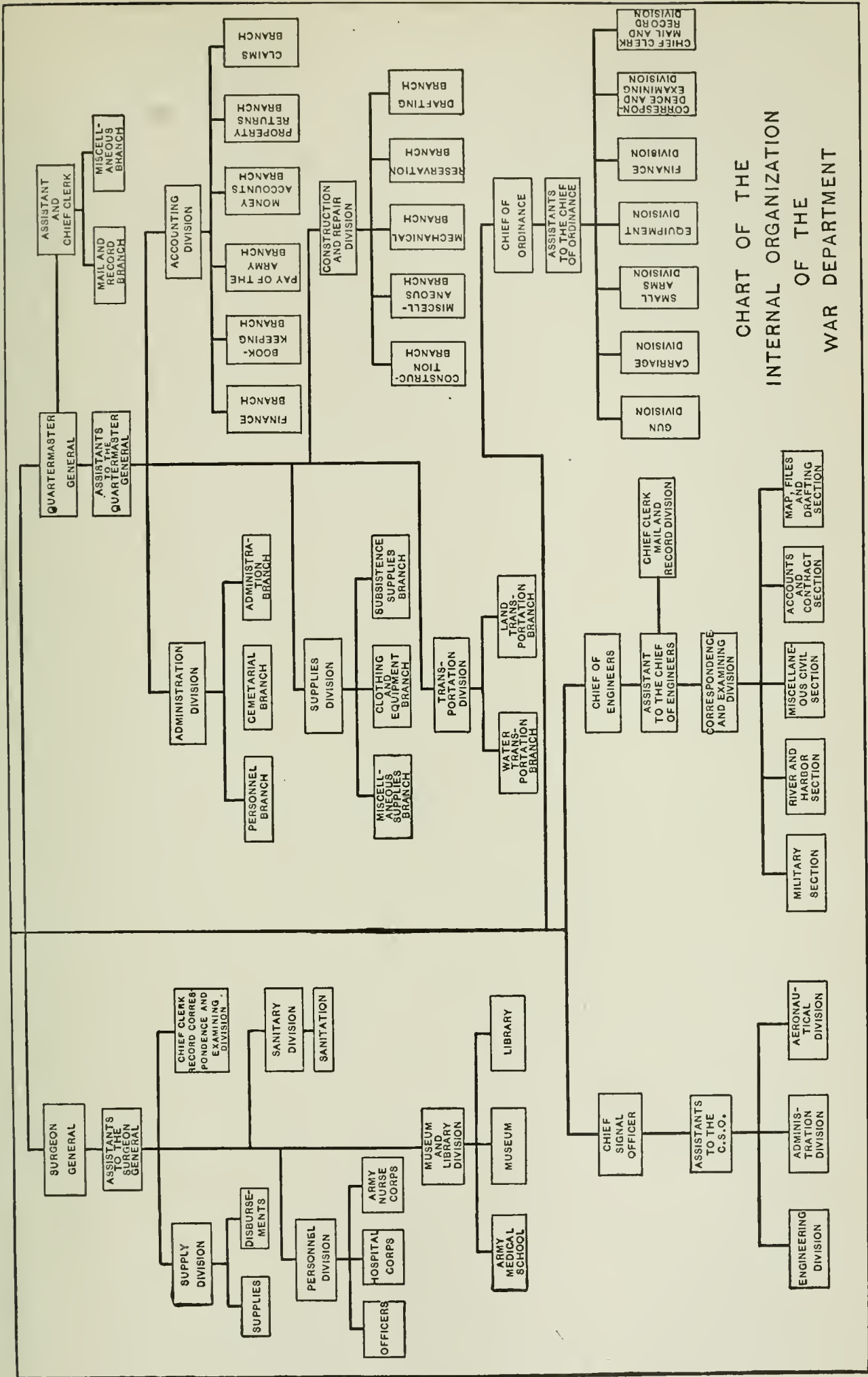
WILLIAM MACDONALD.

WAR, DEPARTMENT OF. The Department of War exercises jurisdiction not only over the military establishment, but also over the navigable waters of the United States. At its head is the Secretary of War, who ranks third in the order of Cabinet precedence, and third after the Vice-President in the order of presidential succession. He is charged by law with the duty of preparing estimates of appropriations for and supervising the expenditures of the department; he has oversight of the Military Academy at West Point and of education in the army war college at Washington; and the publication of the voluminous *Official Records of the War of the Rebellion* is in his charge. Questions relating to bridges over navigable streams and the establishment of harbor lines are settled by him. An assistant secretary decides cases which involve no questions of policy or do not establish or reverse precedents. The enormous mass of work which falls on the department is despatched by a large staff of military officers detailed for the purpose, as well as by a body of civilian clerks and employees.

The Army.—The President is the commander-in-chief of the Army and Navy; and in times both of war and of peace he concerns himself largely with general military policy, as indeed he is compelled to do by reason of the fact that, since the establishment of the department in 1789, the average term of service of a Secretary has been less than two and one-half years. Under his direction, the General Staff Corps prepares plans for national defense and the handling of military forces in time of war; investigates questions as to army efficiency, and renders professional aid and assistance to the Secretary and to general officers. The Chief of Staff acts under the direction of the President or the Secretary in matters of command, discipline and administration; he performs the duties which, before 1903, devolved on the General Commanding the Army. The General Staff consists of a major-general as chief, and

WAR, DEPARTMENT OF





twenty-eight other officers detailed for short terms from each grade down to and including captain. The object is to place the control of the Army in the hands of a body of trained men, whose duty is to secure efficiency and co-ordination. Although no war test has been made of the system, it cannot fail to bring about some degree of preparedness, a condition which has been lacking at the outbreak of every war in which this country has engaged (see ARMY, STANDING).

The Militia.—A Division of Military Affairs exists for the purpose of relating the militia to the army. With this end in view camps of instruction are held, at which the militia are trained side by side with regular soldiers. In 1910, the number of militia so trained was 46,000 men, and of regulars 25,000.

Military Bureaus.—The Adjutant General has charge of orders issued to and reports made by officers of the Army. His office contains the military and medical record of every soldier ever in service, including soldiers of the War of the Revolution; and these records are immediately available. The records of the Confederate States also are here deposited. The Inspector General inspects depots, arsenals, and all other army works and schools, and also the accounts of disbursing officers. The Surgeon General has administrative control over the medical department, including the hospital corps and army nurse corps, the famous Army Medical Museum and its extensive and valuable library. The Chief of Ordnance deals especially with the fabrication of guns and the principles to be followed in improving the standards of arms. The Chief of the Quartermaster Corps has supervision over matters divided before 1913 among three officers, namely, the Paymaster General, attending to the pay and accounts of the Army; the Commissary General, providing subsistence for the Army; and the Quartermaster General, in charge of stores, means of transportation and depots.

The Chief of Engineers commands the corps of engineers, made up of the highest grade men graduating from the Military Academy. To this corps is entrusted the spending of the tens of millions of dollars appropriated by Congress for the improvement of rivers and harbors, and the construction of the Panama Canal. The Board of Engineers for Rivers and Harbors, a permanent body, exists for the purpose of reporting on any project for improvement referred to it by Congress.

The Judge Advocate General's Office deals with courts-martial and all other legal matters pertaining to the department. The Chief Signal Officer has charge of telegraphs and cables and the information transmitted through them.

Insular Affairs.—The Bureau of Insular Affairs, acting under the immediate direction of the Secretary, exercises jurisdiction over

matters of civil government in Porto Rico and the Philippines, and is the repository of Cuban records.

History.—General Henry Knox, Secretary of War under the Confederation, continued in office under President Washington. The department included naval affairs until the establishment of the Navy Department in 1789; and Indian affairs until the creation of the Interior Department in 1849. In peace times the Army was reduced to a few thousand men; so that war or threat of war overwhelmed the department. The greatest of War Secretaries, E. M. Stanton, epitomized the history of the Department when, in 1862, he wrote: "To bring the War Department up to the standard of the times, and work an army of 500,000 men with machinery adapted to a peace establishment of 12,000 is no easy task." It is small wonder that more reputations have been lost than made in this department. The organization of the General Staff, under Secretary Root, after the Spanish War, taken in connection with the constant employment of the Army in the Philippines has tended to efficiency. On the recommendation of the General Staff a complete reorganization of the Army was carried out in 1913. The Corps of Engineers has established a reputation for faithful work, where honesty combined with administrative efficiency is required.

See CABINET OF THE PRESIDENT; EDUCATION, MILITARY AND NAVAL; EXECUTIVE DEPARTMENTS; MILITARY AND NAVAL EXPENDITURES; MILITARY LAW; POSTS, MILITARY; MILITARY PRISONS; MILITARY RESERVATIONS; MILITIA.

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CHARLES MOORE.

WAR GOVERNORS. A designation generally applied to that body of loyal governors in the North who, during the Civil War, ably supported President Lincoln. The disadvantages in carrying on war arising from the dual division of power between the Federal Government and the states were partially overcome by the sympathetic coöperation and forethought of those governors who went to the limit of their legal powers to furnish men and supplies. Indeed, there are instances where they assumed powers not expressly granted them, as for example Morton's use of the state's resources in the face of a hostile legislature. Conspicuous among them were John A. Andrew of Massachusetts; Richard Yates of Illinois; Oliver P. Morton of Indiana; Andrew G. Curtin of Pennsylvania; Edwin D. Morgan of New York; David Tod and John Brough of Ohio; and Samuel J. Kirkwood of Iowa. See MILITIA; WAR DEMOCRATS; WARS OF THE

UNITED STATES. References: *Tribune Almanac* (1861 to 1865); J. F. Rhodes, *Hist. of the United States* (1907), V, 234-5. O. C. II.

WAR, INTERNATIONAL RELATIONS DURING. Definitions.—"In treating of the law of war, we have to find out what is war, which is the subject under investigation: what the law which is sought. Cicero called war a contention by force. Usage, however, holds that not the action, but the state, is indicated by the term, 'war,' so that war is the condition of contention by force, as such." (Grotius, *De jure belli ac pacis*.)

Dr. Lieber, in 1863, in the *Instructions for the Government of Armies of the United States in the Field*, defined public war as follows:

Public war is a state of armed hostility between sovereign nations or governments. It is a law and requisite of civilized existence that men live in political, continuous societies, forming organized units, called states or nations, whose constituents bear, enjoy, and suffer, advance and retrograde, together, in peace and in war.

Civil War.—In 1862, concerning war and civil war Mr. Justice Greer said:

War has been well defined to be, "That state in which a nation prosecutes its right by force." The parties belligerent in a public war are independent nations. But it is not necessary to constitute war that both parties should be acknowledged as independent nations or sovereign states. A war may exist where one of the belligerents claims sovereign rights as against the other. Insurrection against a government may or may not culminate in an organized rebellion, but a civil war always begins by insurrection against the lawful authority of the Government. A civil war is never solemnly declared; it becomes such by its accidents—the number, power, and organization of the persons who originate and carry it on. When the party in rebellion occupy and hold in a hostile manner a certain portion of territory; have declared their independence; have cast off their allegiance; have organized armies; have commenced hostilities against their former sovereign, the world acknowledges them as belligerents, and the contest a war. They claim to be in arms to establish their liberty and independence, in order to become a sovereign state, while the sovereign party treats them as insurgents and rebels who owe allegiance, and who should be punished with death for their treason.

The laws of war, as established among nations, have their foundation in reason, and all tend to mitigate the cruelties and misery produced by the scourge of war. Hence the parties to a civil war usually concede to each other belligerent rights. They exchange prisoners, and adopt the other courtesies and rules common to public or national wars (*Prize Cases*, 1867, 7 *Black* 65).

Declarations.—In early times there were many attempts to classify wars, but classifications are not of great significance at present for international relations. When war *de jure* actually exists the international relations are fairly well defined. There may, however, be war *de facto*, war in the material sense, which may give rise to conditions in which the legal obligations are not fully defined (*see INSURGENCY IN INTERNATIONAL LAW*).

The Hague Conference of 1907 agreed upon a Convention requiring a declaration of war with reasons, or an ultimatum with a conditional declaration of war (*see DECLARATION OF WAR*). This declaration should be issued prior

to engaging in hostilities, the obligations of neutrals to be dependent upon their knowledge of the declaration.

War between states not only changes the international relations previously existing between the states, but also gives rise to new relations on the part of other states. A civil war changes the relations between the parties to it, and also gives rise to new relations on the part of other states. Professor Moore says:

Much confusion may be avoided by bearing in mind the fact that by the term war is meant not the mere employment of force, but the existence of the legal condition of things in which rights are or may be prosecuted by force. Thus, if two nations declare war one against the other, war exists, though no force whatever may as yet have been employed. On the other hand, force may be employed by one nation against another, as in the case of reprisals, and yet no state of war may arise. In such a case there may be said to be an act of war, but no state of war.

Congress has power to declare war in the United States. The United States may, however, become involved in war through the act of a foreign state in levying war against the United States, or through an uprising within the United States and in such cases:

The President is not only authorized but bound to resist force by force. He does not initiate the war, but is bound to accept the challenge without waiting for any special legislative authority. And whether the hostile party be a foreign invader, or states organized in rebellion, it is none the less a war, although the declaration of it be "unilateral" (*Prize Cases*, 1862, 2 *Black* 668).

Belligerency.—When war actually exists the belligerent parties, whether or not previously recognized states, have belligerent rights as regards those states by which they have been recognized as belligerents, and as regards their relations with each other.

Effect on International Relations.—The general effect of war is to put an end to the peaceful relations between the belligerent parties. If any international negotiations are carried on, such negotiations are usually through the medium of some state which is friendly to both parties. During the Spanish-American War of 1898, the French representative acted as a friendly medium for both the United States and Spain. The United States performed a similar service in the Russo-Japanese War of 1904-5.

Effect on Subjects.—If the law of war is strictly enforced all relations between the subjects of the belligerents are likewise prohibited. The circular issued by the Treasury Department of the United States on April 27, 1898, provided for the refusal by port officers of the United States of: (1) clearance to vessels bound to ports blockaded by the United States; (2) clearance to vessels carrying contraband to Spanish ports; (3) clearance to vessels with coal for Spanish ports; (4) clearance to American vessels for Spanish ports.

Many treaties provide for a certain limited period during which subjects of one state within the limits of the other at the out-

break of hostilities may close up their affairs and depart. In general, subjects of one belligerent are legally incapable of contracting with subjects of another belligerent during hostilities (1877, *Conrad vs. Waples*, 96 U. S. 279; 1892, *Briggs vs. United States*, 143 U. S. 346). Many contracts between the subjects of belligerents entered into before the declaration of war are suspended or dissolved by war though it has been held that the statute of limitations does not run during the period of the war (1867, *Hanger vs. Abbott*, 6 Wallace 532).

Public Property.—The public property of one belligerent within the territory of the other belligerent if immovable and of use for war, may be occupied and used by the belligerent within whose territory it is. This belligerent may also enjoy the usufruct of the other public property but property devoted to educational, religious and scientific purposes is not to be injured. Movable public property of one belligerent within the territory of the other is liable to such treatment as its nature may determine. The property of municipalities and of private persons is generally exempt except from such treatment as may be due to the necessities of war (*see PRIVATE PROPERTY AT SEA; VESSELS*).

Prisoners.—The laws of war now provide for the humane treatment of prisoners of war, as war is now regarded as aimed against the state rather than against the subjects of a state (*see PRISONERS OF WAR*).

Effect on Neutrals.—The declaration of war between states or the recognition of belligerency in case one of the parties to the war is not a state, gives rise to new relations with states not parties to the war (*see NEUTRALITY, PRINCIPLES OF; NEUTRAL TRADE, PRINCIPLES OF; VESSELS*). The belligerents are, as regards the war, upon the same basis and subject to similar treatment and restrictions. As neutrality involves in general non-participation in the hostilities it may bind the neutral to prevent certain acts, as the use of its territory as a base; to tolerate certain acts, as the visit and search of its private vessels (*see RIGHT OF VISIT*); or to regulate certain acts, as trade in arms.

See ANNEXATIONS TO THE UNITED STATES; ARBITRATION AND PEACE; BELLIGERENCY; BLOCKADE; CONFEDERATE STATES OF AMERICA; CONQUEST, RIGHT OF; CONTRABAND; CUBA AND CUBAN DIPLOMACY; DECLARATION OF PARIS; DECLARATION OF WAR; DE FACTO GOVERNMENT; DISARMAMENT; DRAGO DOCTRINE; EMBARGO; FILIBUSTERS TO AID INSURRECTIONS; FOREIGN POLICY OF THE UNITED STATES; FREE SHIPS MAKE FREE GOODS; HAGUE CONFERENCES; HAGUE TRIBUNAL; INSURGENCY IN INTERNATIONAL LAW; INTERNATIONAL LAW, INFLUENCE OF THE UNITED STATES ON; MARITIME WAR; NEUTRAL TRADE, PRINCIPLES OF; NEUTRALITY, PRINCIPLES OF; NONCOMBATANT; PEACE, CON-

CLUSION OF; PRISONERS OF WAR; PRIZE LAW AND COURTS; SOVEREIGNTY, THEORY OF; TREATIES IN INTERNATIONAL LAW; WAR, CARRYING ON; WAR POWER, CONSTITUTIONAL.

References: J. B. Moore, *Digest of Int. Law* (1906), VII, 152-583; J. Westlake, *Int. Law* (1907), Pt. II; W. E. Hall, *Int. Law* (1909), 370, *et seq.*; G. G. Wilson, *Int. Law* (1910), 241-381; H. Grotius, *De jure belli ac pacis* (1625).

GEORGE G. WILSON.

WAR OF 1812. See WARS OF THE UNITED STATES.

WAR POWER, CONSTITUTIONAL. **Origin.**—At the date of the adoption of the Constitution the experiences of the Revolutionary War was fresh in the minds of the members of the convention; its presiding officer had been the commander-in-chief of the revolutionary armies, and many of its members had exercised military command in the continental line, or in the forces raised by the states for the prosecution of the war. With such practical knowledge in its possession the convention would have been remiss, indeed, had it failed to make adequate provision for the national defense, or to vest in the several branches of the government sufficient power to enable them to cope with external violence or internal disorder. It must be conceded, in the light thrown upon its work by nearly a century and a half of impressive experience that the Federal Convention of 1787 performed its duty in that regard in an able and satisfactory manner.

Distribution of Power.—The power to provide for the national defense, including the important power of initiative, was vested in the Congress, and to that branch the power to declare war, together with the right—then regarded as more important than at present—of issuing letters of marque and reprisal (*see*), and of making rules for captures on land and water. This question of high national policy having been thus satisfactorily disposed of, power was vested in the Congress to raise and support armies, to provide and maintain a navy and to make rules for the government of the land and naval forces. The power to establish and maintain land and naval forces, a power peculiarly legislative in character, having been thus vested in Congress, the authority to organize, train and instruct as well as to discipline and command the forces so authorized—a function essentially executive in its nature, was then vested in the President in the clause making him the commander-in-chief of the land and naval forces and of the militia of the several states when called into the actual service of the United States (Art. II, Sec. ii, ¶1).

Declaration of War.—The power to declare war, as it affects the very life of the state, and may determine its political existence at any time, is one which should be exercised

with great caution and deliberation, and should be surrounded with substantial and efficient safeguards. The formal, official declaration of war was regarded as an incident of more serious importance at the date of the adoption of the Constitution than is the case at present. The modern mind assigns greater significance to acts and to questions of fact and their probable consequences, and the actual outbreak of hostilities is now regarded as decisive in determining a status of public war between two independent communities. It should not be forgotten, in this connection, that most of the public wars in which the United States has been engaged have begun with acts of hostility, originating, in a majority of cases, with the opposing belligerent. In such cases a previous declaration was out of the question, and the practice has been for Congress to recognize the existence of war, by an appropriate act of legislation, to charge the President with its diligent prosecution and to furnish the men and means for carrying the existing hostilities to a successful termination. This tendency to regard an act of hostility as the beginning of public war, rather than the formal announcement of the legislative will in that regard will undoubtedly continue to prevail, although the Second Hague Conference regarded the resort to hostilities, without prior declaration or notification, as an evil of sufficient importance to warrant the application of a conventional remedy (see DECLARATION OF WAR).

Forces.—In its power to raise armies, and to provide and maintain a navy, the authority of Congress is plenary, and its conclusions as to the strength and composition of the constitutional military forces are final (Art. I, Sec. viii, ¶¶ 12-16); with the forces so furnished the President must provide for the defense of the country, for the maintenance of public order, and for the prosecution of such military and naval operations as may be declared, or otherwise determined on by Congress. As the legislative department is supreme in determining the strength and composition of the forces to be employed in the public defense, the President, as the constitutional commander-in-chief, is equally independent in his employment of the land and naval forces so provided; and acts done by him in the exercise of his military command are not reviewable by other branches of the government.

Protection against Domestic Violence.—The constitutional convention was not satisfied with having worked out fields of appropriate activity for Congress and the President in the exercise of the war powers with which they were respectively invested. The experience of the colonies as to the manner in which the war powers of the Crown had been exercised was too recent and important to permit the purposes of their exercise to remain without statutory regulation. With a view, therefore,

to impose a reasonable restriction upon the executive in respect to the undertakings in which the land and naval force might lawfully be employed, they were made the subject of precise enumeration in a clause providing that the militia, might be used for three purposes, these were: to execute the laws of the Union, suppress insurrections, and repel invasions. Under the first head—to execute the laws of the Union—fall two rather widely separated occasions for the employment of military force. A declaration of war is, in form, an act of Congress which requires for its validity the approval of the President; a declaration of war would thus seem to be a "law of the Union" within the meaning of the Constitution, and therefore binding on all parts of the Union. The same is true of organized opposition to the execution of the laws in any part of the Union; and this opposition may be met and overcome whether it be addressed to the laws of the United States generally—as in the case of the Civil War—or to particular classes of laws as, for example, those regulating the collection of the revenues, or the movement of interstate commerce. The power to suppress insurrection and repel invasion inheres in every civilized state as insurrection and invasion constitute attempts against the life of the body politic and must, for that reason, be vigorously met and resisted. With a view to enable the President to act with the necessary promptness, especially where the troops constituting the regular army are so widely scattered as not to be immediately available, he is authorized by statute to call forth the militia of the states nearest to the point at which its services are required.

Rules of War.—Congress is not only charged with the decision of all questions relating to the strength and composition of the land and naval forces but is vested with power to prescribe rules for their government and regulation. If individual citizens are to enter the military service it is of the highest importance that the rules of discipline and conduct under which they are to live should be made known to them, and that the powers and duties of the officers who are to command them should be made the subject of exact statutory regulation. This purpose has been accomplished, as to the Army, by the enactment of a code of rules, known as the *Articles of War* (see), and as to the Navy by the similar enactment of the *Rules for the Government of the Navy*.

Implied Powers.—But very considerable powers are exercised by the President and by Congress, in time of war, which are not made the subject of exact description in the Constitution, but which are obtained from that instrument by necessary implication from powers already granted. The power to declare war, for example, involves the power to conduct hostile operations against the enemy and,

equally, to invade his territory and to establish there a government by military occupation. Congress may legislate in that regard, as was the case in the reconstruction acts of 1867; but the practice has been to commit the government of such territory to the President and his subordinate military commanders. Indeed, such legislation is not necessary, as the powers and duties of generals in chief command of occupied territory are regulated rather by treaties and by the law of nations than by the requirements of the Constitution.

Annexed Territory.—Where territory is acquired by purchase, or by treaty, possession is taken by the executive and very extensive powers are exercised within such territory by the President pending its assimilation by the operation of an appropriate act of legislation by Congress. Such was the case with the Louisiana Purchase in the early part of the nineteenth century, and with the acquisition of territory from the State of Panama (*see* under TERRITORY), for the construction of an interoceanic canal.

See ANNEXATIONS TO THE UNITED STATES; ARMY, STANDING; BELLIGERENCY; BLOCKADE; DECLARATION OF WAR; ENLISTMENT, NAVAL AND MILITARY; INSURGENCY IN INTERNATIONAL LAW; MARTIAL LAW; MARITIME WAR; MILITARISM; NEUTRALITY, PRINCIPLES OF; PEACE, CONCLUSION OF; PRISONERS OF WAR; WAR, INTERNATIONAL RELATIONS DURING; WAR POWERS OF THE PRESIDENT.

References: W. Whiting, *War Powers Under the Constitution* (1910), 912-920; H. C. Black, *Constitutional Law* (1895), 95-98; C. M. Clode, *Military Forces of the Crown*, (1869), ch. xxxvi; J. N. Pomeroy, *Constitutional Law*, (10th ed., 1888); J. B. Moore, *American Diplomacy* (1905); A. C. Coolidge, *U. S. as a World Power* (1908). **GEORGE B. DAVIS.**

WAR POWERS OF THE PRESIDENT.

Several important war powers are vested in the President by the Constitution, either expressly or by necessary implication; these relate to the chief command of the land and naval forces, and to the power to wage war which has been regularly declared by Congress; he may also use military force to execute the laws of the Union, to suppress insurrection and repel invasion; where the property of the United States is threatened, or the lives or property of its citizens are endangered, he may take the necessary steps to protect them, using force, where other methods have failed, until the pleasure of Congress can be learned. Accordingly, as in 1846, the President can practically place the army in a position leading to war. In the exercise of the powers thus granted the authority of the President is plenary; he may direct military and naval operations to be undertaken, within the means placed at his disposal by Congress, and may resort to such measures with a view

to harass and destroy the enemy as he may deem necessary to the successful prosecution of the war (Const. Art. II, Sec. ii, ¶ 1, Sec. iii). Within the limits prescribed by the law of nations he may cause the private property of the enemy to be taken for the use of the Army, by way of requisition or contribution, and may direct that the private property of enemy subjects, not contraband of war, shall be liable to capture on the high seas or, in his discretion, may allow it to pass to its destination free from molestation. In a case in which such a course will conduce to the termination of the war, he may issue instructions that certain classes of property shall be deprived of that quality—such instructions were contained in the Emancipation Proclamation of 1863—may exercise similar powers in a case of intervention in the execution of a treaty, as in the Cuban intervention of 1906; and his orders and proclamations in such territory have the force of law and may be executed, if need be, by a resort to military force.

See COMMANDER-IN-CHIEF; HABEAS CORPUS; MARTIAL LAW; MILITIA; REBELLION; WAR, CARRYING ON; WAR POWER, CONSTITUTIONAL.

References: J. Buchanan, *James Buchanan's Administration* (1866); D. K. Watson, *Constitution of the U. S.* (1910), II, 912-920; H. C. Black, *Constitutional Law* (1895), 95-98; C. M. Clode, *Military Forces of the Crown* (1869), II, ch. xxxi; J. N. Pomeroy, *Constitutional Law* (10th ed., 1888), 372-377; W. Whiting, *War Powers of the President* (1910), 66-82; *War Powers under the Constitution* (1910), 95-98; bibliography in A. B. Hart, *Manual* (1908), § 159. **G. B. DAVIS.**

WAR, SECRETARIES OF. Under the Articles of Confederation, Benjamin Lincoln (Oct. 1781-1783) and Henry Knox (Mar. 1785-1789), served as Secretaries of War. Following is a list of Secretaries since the establishment of the Department under the Constitution:

1789 (Sept. 12)-1794 (Dec. 31), Henry Knox.
1795 (Jan. 2)-1796 (Jan. 27), Timothy Pickens (Sec. of State; *ad int.* after Dec. 10, 1795).
1796 (Jan. 27)-1800 (May 13), James McHenry.
1800 (May 13)-1801 (Mar. 5), Samuel Dexter (Sec. of Treasury; *ad int.* after Jan. 1, 1801).
1800 (June 1), Benjamin Stoddert (Sec. of Navy; *ad int.*).
1801 (Mar. 5)-1809 (Feb. 16), Henry Dearborn.
1809 (Feb. 17), John Smith (Chief Clerk; *ad int.*).
1809 (Mar. 7)-1812 (Dec. 31), William Eustis.
1813 (Jan. 1), James Monroe (Sec. of State; *ad int.*).
1813 (Jan. 13)-1814 (Aug. 30), John Armstrong.
1814 (Aug. 30), James Monroe (Sec. of State; *ad int.*).
1814 (Sept. 27)-1815 (Mar. 14), James Monroe (Sec. of State; *ad int.* after Feb. 28, 1815).
1815 (Mar. 14), Alexander J. Dallas (Sec. of Treasury; *ad int.*).
1815 (Aug. 1)-1816 (Oct. 21), William H. Crawford.
1816 (Oct. 22), George Graham (Chief Clerk; *ad int.*).
1817 (Oct. 8)-1825 (Mar. 3), John C. Calhoun (re-commissioned Dec. 16, 1817).
1825 (Mar. 7)-1828 (May 21), James Barbour.
1828 (May 26), Samuel L. Southard (Sec. of Navy; *ad int.*).

1828 (May 26)-1829 (Mar. 3), Peter B. Porter.
 1829 (Mar. 9)-1831 (June 18), John H. Eaton.
 1831 (June 20), Philip G. Randolph (Chief Clerk; *ad int.*).
 1831 (July 21), Roger B. Taney (Atty. Gen.; *ad int.*).
 1831 (Aug. 1)-1836 (Oct. 4), Lewis Cass (recommissioned Dec. 30, 1831).
 1836 (Oct. 5), Carey A. Harris (Commissioner of Indian Affairs; *ad int.*).
 1836 (Oct. 26)-1837 (Mar. 7), Benjamin F. Butler (Atty. Gen.; *ad int.*, recommissioned *ad int.* Mar. 3, 1837).
 1837 (Mar. 7)-1841 (Mar. 3), Joel R. Poinsett.
 1841 (Mar. 5)-1841 (Sept. 11), John Bell.
 1841 (Sept. 12)-1841 (Oct. 12), Albert M. Lea (Chief Clerk; *ad int.*).
 1841 (Oct. 12)-1843 (Mar. 7), John C. Spencer (recommissioned Dec. 20, 1841).
 1843 (Mar. 8)-1844 (Feb. 15), James M. Porter.
 1844 (Feb. 15)-1845 (Mar. 6), William Wilkins.
 1845 (Mar. 6)-1849 (Mar. 7), William L. Marcy.
 1849 (Mar. 8), Reverdy Johnson (Atty. Gen.; *ad int.*).
 1849 (Mar. 8)-1850 (July 22), George W. Crawford.
 1850 (July 23), Samuel J. Anderson (Chief Clerk; *ad int.*).
 1850 (July 24), Winfield Scott (Maj. Gen. U. S. A.; *ad int.*).
 1850 (Aug. 15)-1853 (Mar. 7), Charles M. Conrad.
 1853 (Mar. 7)-1857 (Mar. 3), Jefferson Davis.
 1857 (Mar. 3), Samuel Cooper (Adj. Gen. U. S. A.; *ad int.*).
 1857 (Mar. 6)-1860 (Dec. 31), John B. Floyd.
 1861 (Jan. 1)-1861 (Jan. 17), Joseph Holt (Postmaster Gen.; *ad int.*).
 1861 (Jan. 18)-1861 (Mar. 5), Joseph Holt.
 1861 Mar. 5)-1862 (Jan. 15), Simon Cameron.

1862 (Jan. 15)-1867 (Aug. 12), Edwin M. Stanton.
 1867 (Aug. 12), Ulysses S. Grant (Gen. of the Army; *ad int.*).
 1868 (Jan. 14)-1868 (May 26), Edwin M. Stanton (reinstated, not recognized by President after Feb. 21, 1868).
 1868 (Feb. 21), Lorenzo Thomas (Adj. Gen. U. S. A.; *ad int.*).
 1868 (May 28)-1869 (Mar. 11), John M. Schofield.
 1869 (Mar. 11)-1869 (Sept. 6), John A. Rawlins.
 1869 (Sept. 9)-1869 (Oct. 25), William T. Sherman.
 1869 (Oct. 25)-1876 (Mar. 2), William W. Belknap (recommissioned Dec. 8, 1869; March 17, 1873).
 1876 (Mar. 2), George M. Robeson (Sec. of Navy; *ad int.*).
 1876 (Mar. 8)-1876 (May 22), Alphonso Taft.
 1876 (May 22)-1877 (Mar. 11), James D. Cameron.
 1877 (Mar. 12)-1879 (Dec. 10), George W. McCrary.
 1879 (Dec. 10)-1881 (Mar. 5), Alexander Ramsey.
 1881 (Mar. 5)-1885 (Mar. 6), Robert T. Lincoln.
 1885 (Mar. 6)-1889 (Mar. 5), William C. Endicott.
 1889 (Mar. 5)-1891 (Dec. 5), Redfield Proctor.
 1891 (Dec. 6), Lewis A. Grant (Asst. Sec.; *ad int.*).
 1891 (Dec. 22)-1893 (Mar. 6), Stephen B. Elkins.
 1893 (Mar. 6)-1897 (Mar. 5), Daniel S. Lamont.
 1897 (Mar. 5)-1899 (Aug. 1), Russell A. Alger.
 1899 (Aug. 1)-1904 (Feb. 1), Elihu Root (recommissioned Dec. 6, 1899; March 5, 1901).
 1904 (Feb. 1)-1908 (June 30), William H. Taft (recommissioned March 6, 1905).
 1908 (July 1)-1909 (Mar. 4), Luke E. Wright (recommissioned Dec. 9, 1908).
 1909 (Mar. 5)-1911 (May 15), Jacob M. Dickinson.
 1911 (May 15)-1913 (Mar. 5), Henry Lewis Stimson.
 1913 (Mar. 5)- Lindley M. Garrison.

A. B. H.

WARS OF THE UNITED STATES

Relations to Government.—Although the United States, since its foundation has been able to keep out of European, Asiatic and African wars, and has but once been called upon to defend its territory against an invader, war, the Army and Navy, and the territorial accessions following war, have played a great part in developing the nation. It was born in the midst of war, and the Federal Constitution bears the mark of provisions for military dangers, and contains numerous clauses on the organization of the national forces (*see* ARMY).

In fact the United States was at war before there was a formal United States. The second Continental Congress in May, 1775, created a national army, soon followed by a national navy, and made rules for maritime warfare. Congress, on July 6, 1775, voted what was substantially a declaration of war against Great Britain: and at the end of the struggle, Congress authorized and ratified the treaty of peace.

Revolutionary War.—The conduct of the war with Great Britain, commonly called the Revolutionary War, revealed structural difficulties which continue to the present day. Congress, through which alone a general war could be waged, and a general military system carried out, was flanked by the states, and only a small part of the troops enlisted were completely responsible to the central government. This confusion of authority and interest probably doubled the money cost of the war. The system of raising soldiers was particularly defect-

ive, for at least four kinds of revolutionary troops were raised: (1) the continental line, a small body of national troops; (2) the state lines, being regiments regularly enlisted and officered by the state, but subject to the orders of the continental general officers; (3) occasional levies of militia, organized in companies or small parties operating under the orders of the states; (4) irregular border troops, perhaps not enlisted at all, and owing no obedience to the regular military authority, often nothing better than marauders. The total number of troops of all kinds was probably about 150,000 individuals in actual service under authority during the war.

The main characteristics of the Revolutionary War were as follows: (1) the narrow limits of most of the operations, inasmuch as they were mostly confined to a strip along the sea coast; (2) complete failure of the two British attempts to penetrate the country, under Burgoyne and Cornwallis; (3) frontier warfare, with Indian allies, which exasperated both sides and gave no military advantage; (4) occupation of the southern Illinois country by George Rogers Clark (*see* NORTHWESTERN BOUNDARY CONTROVERSY); (5) destructive privateering on both sides; (6) the final success of the United States through French alliance (*see*) (7) the defeat of professional and experienced British officers by generals who had never previously commanded anything stronger than a few companies of raw militia; (8) the defeat and capture of British ships



by the one American naval genius of the war, John Paul Jones.

Indian Wars from the Revolution to 1815.—During and after the Revolution, there was a succession of wars with Indian tribes, who were sufficiently numerous and brave to be dangerous enemies. Sullivan's expedition of 1779 completely crushed the Six Nations (*see*), who for a century and a half had been a formidable military power. At the end of the Revolution the Federal Government assumed the responsibility to the Indians (*see* INDIANS, CONSTITUTIONAL AND LEGAL STATUS OF) for their possession of their lands, their commerce, their civilization and their good order. Georgia was a frontier community which undertook to fight the Indians without the consent and against the wishes of the national Government. At various periods from 1790 to 1820, particularly in 1795, 1814 and 1818, Georgia and Tennessee militia, acting independently of the Federal Government, attacked the warlike Cherokees, Creeks and Seminoles, all of whom, by 1825, were practically out of condition to keep up a war.

A similar state of things was brought about in the Northwest by successive campaigns from 1790 on to the campaign of Tippecanoe in 1811. The usual result of these troubles was the cession of land by the Indians, and the placing of the tribes on reservations (*see*) which were not part of the territory of the state within which they lay, nor subject to state law. This gave rise to serious difficulty with Georgia in the twenties (*see* INDIAN POLICY OF THE UNITED STATES). Most of the Indian wars were carried on by state militia called out for brief periods.

War Measures and Petty Wars Down to 1811.—During the first decade of Federal Government, a test was made of the war powers in several different directions. A War Department was created in 1789, and May 8, 1792, a feeble statute was passed for the training of a state militia. In 1794, when rupture with Great Britain seemed likely, Congress laid an embargo on shipping, passed the first measures for fortifications and for building a navy, and threatened to confiscate the property of British subjects. The crisis was removed by the Jay Treaty (*see*); but a breach with France led to a new series of military measures. In 1798 the Navy Department was separated from the War Department; naval vessels were completed; the enlistment of troops and the raising of a large militia army were authorized; and July 7, 1798, Congress declared its three existing treaties with France to be no longer in force, and about the same time authorized the capture of French cruisers and eventually of privateers. Though there was no formal declaration of war, there was a little fighting at sea, and plans were made for seizing Louisiana as the property of an ally of France. These hostilities were ter-

minated by the treaty of 1800 (*see* FRANCE, DIPLOMATIC RELATIONS WITH).

From 1802 to 1805, the United States was at war with Tripoli, the real issue being a question of paying tribute to Tripoli in order to prevent the pirates from seizing American vessels. An effective little fleet was sent out and the Tripolitans at last yielded and gave up the claim for tribute. One effect of the war was the training of several hundred naval officers; and another was showing the world that there was no longer any need of buying off the Barbary pirates. Morocco and Tunis ceased their depredations as did Algiers after a little brush in 1815.

War of 1812.—The country nearly went to war over the capture of the frigate *Chesapeake* by the British frigate *Leopard* in 1807, but the crisis drifted by until the summer of 1812. The principal grievances against Great Britain were impressment, and captures of neutral merchantmen; the real grievance was the contemptuous tone and disdainful action of the British Government. The immediate purpose of the war was the conquest of Canada, to be held in order to force a guaranty of better treatment. Hostilities lasted two and a half years, during which the war was badly administered, the Army was badly conducted, the soldiers were badly armed and equipped, and the resources of the country were badly applied.

At sea, American ship owners lost 1700 merchantmen, and at the end of the war not a public ship bore the American flag on the Atlantic. On the other hand, American cruisers and privateers captured 2500 British merchantmen, and of sixteen ship duels the Americans were victorious in twelve. This success amazed the British and secured better terms of peace than could reasonably have been hoped for.

On land the Americans were defeated in all but one of their numerous efforts to invade Canada. Washington was captured and burned, part of Maine and the little trading post of Astoria in Oregon (*see*) went into British possession; but the Americans at Plattsburg and New Orleans beat off well organized British armies, so that at the end of the war there was a feeling of elation over the supposed superiority of the American army.

From a governmental point of view, the War of 1812 is full of national lessons. The President delegated a call for the state militia to General Dearborn, and several of the New England states refused to permit their militia to march, partly because the call did not issue directly from the President, partly on the ground that there was no "invasion," partly on the allegation that militia were not obliged to serve outside the United States. Subsequently, in the case of *Martin vs. Mott* (12 *Wheat.* 19) the Supreme Court overruled these contentions of the states. The militia system worked almost as badly as in the Revolution; the army was made up almost wholly of un-

disciplined and ill-armed men. The public debt increased within three years, from \$40,000,000 to \$120,000,000.

Nevertheless, the War of 1812 did much to arouse national spirit and to promote national unity. Means of communication were improved, a new currency and banking system provided, domestic manufactures encouraged. Great Britain made a favorable peace, and from that time on looked upon the Republic with manifest respect.

Indian Wars, 1815-1875.—For thirty years after the War of 1812, there was a succession of exasperating hostilities with the Indians on the western frontier. The warlike Creeks and Cherokees were moved across the Mississippi in the thirties. Since the Black Hawk War (*see*) of 1832, and the Seminole War, there has been no serious trouble with Indians east of the Mississippi river.

After the discovery of gold in California, there were constant hostilities with the tribes on the lines of transcontinental land communication. The fiercest of these were the Apaches, who for forty years harassed the Southwest. The powerful and warlike Sioux in Minnesota rose in 1862. Long hostilities in the north culminated in the annihilation of General Custer's command in 1876. The last notable Indian wars were the Modoc War of 1872-73, Sioux War of 1876, and hostilities with the Apaches till 1886. Since that time all of the wild Indians have gone on fixed reservations. These little wars have been fought almost exclusively by United States regulars, the experience in handling and provisioning troops and in field tactics in these petty struggles proving of much value to a considerable number of officers in the Civil War.

Mexican War.—In 1846 war was declared with Mexico (*see* MEXICO, DIPLOMATIC RELATIONS WITH), the object being the conquest of California, and of the intermediate stretch of New Mexico. The war is an illustration of the President's ability to involve the country in hostilities (*see* PRESIDENT, AUTHORITY AND INFLUENCE OF). The main reliance was again on state militia mustered into service under federal general officers. Some civilians were appointed to commands; and nearly all of the successful generals, Wool, Taylor and Scott, were not West Pointers; but some brilliant young regular officers, such as U. S. Grant and Robert E. Lee, won their spurs in this war. The movements of the troops were well planned and the army well supplied. General Scott was ordered to live upon the country, but found it impossible.

The military expeditions to New Mexico and California were well managed (*see* TERRITORY, STATUS OF ACQUIRED). For a time the annexation of the whole of Mexico seemed likely (*see* GUADALUPE HIDALGO, TREATY OF). After the treaty of 1848 was ratified, a question arose as to the status of territory transferred to the

United States but not yet organized. By Supreme Court decision in the case of *Cross vs. Harrison* (16 *Howard* 164), it was held that the military authority of the President continued in force until Congress acted; and the general acts of Congress, such as the tariff, took effect in the annexed regions as soon as the annexation was completed; a decision reversed in 1900 (*see* INSULAR CASES).

The Civil War.—From the end of the Mexican War to the opening of the Civil War, five successive naval expeditions were sent to Japan, the last in 1854; and four times American forces acted in a hostile fashion in China. A civil war was threatened for a time in Utah. The main service of the Army was the protection of the frontier and of communication across the continent.

When the Civil War broke out in 1861 the United States had a regular Army of 16,000 men actually under the colors; and the Navy had 90 steam and sailing craft in commission and available for use, with about 5,000 sailors and marines.

Both sides were confronted by the necessity of improvising an army; both sides went back to the discredited system of state militia regiments. In the course of the struggle about 2,000,000 men and boys were enrolled on the Federal side, and from 1,100,000 to 1,200,000 on the Confederate side. The early enlistments were short; later, veterans reenlisted for three years or the war. Incompetent officers were weeded out and promotion was rapid, so that cases are recorded of men entering the army as privates and coming out a few years later as Major Generals.

Before the end of the war, both sides possessed hardy and disciplined armies, guided by seasoned commanders. With few exceptions the successful general officers on both sides were graduates of West Point. The federal Army was probably the best fed and the best provided army ever put into the field up to that time. The southerners had to contend against poor transportation and weak administrative organization.

The war seriously affected the governments of both North and South, by throwing great responsibility on them, and especially on the executives (*see* CIVIL WAR, INFLUENCE OF; ON AMERICAN GOVERNMENT; CONFEDERATE STATES), and involved immense expenditures of money and of life. The casualties were no less than 385,000 killed and wounded on the northern side; on the southern side, 329,000. The campaigns gave a splendid military training to soldiers and officers, and produced a military feeling which was reflected after the struggle was over by a general creation of interest in military history, the establishment of military schools, military societies and orders, and by a preference for military men in public life. The Federal Government as a working machine came out of the struggle much invigorated;

and the western state governments were also strengthened by their efforts throughout the war to second the work of the Union (see WAR GOVERNORS).

The United States built or bought the vessels for a blockading fleet, numbering about 111 ships; for a river flotilla numbering about 21 craft; and for powerful naval squadrons which took Newbern, Beaufort, South Carolina, New Orleans, and Mobile Bay. The South was not a ship-building region, but built or rebuilt some powerful ironclads, and sent out or purchased abroad several fast cruisers (see ALABAMA CONTROVERSY). The name "privateer" commonly applied to these vessels was a misnomer except in the first months of the war; they were regularly documented ships of war. The large commercial fleet of the United States was a favorite object of attack, and 258 merchant ships were captured by the Confederates during the war.

Spanish-American War.—For thirty-three years after the Civil War the nation was at peace, though threats and rumors of war arose over the neutrality of Great Britain (see ALABAMA CONTROVERSY), over the Cuban struggle (see VIRGINIUS EPISODE); and over the second Cuban insurrection (see CUBA AND CUBAN DIPLOMACY). Sympathy in the United States for the Cubans rose to a fever height after the destruction of the *Maine* (see), and the trouble culminated in the authorization of the President to use armed force by a joint resolution of Congress of April 20, 1898, which was followed immediately by a declaration of war.

Hostilities ended August 12, 1898, with a protocol by which Spain agreed to give up Cuba and Porto Rico. Further details were adjusted by a treaty of peace signed in Paris, December 10, 1898, in which Guam and the Philippine Islands were also ceded to the United States. The treaty was ratified by the Senate, April 11, 1899, and formally proclaimed April 14, 1899.

The war involved many important governmental and international questions, such as the right of a nation to intervene in a war between a friendly power and a part of its subjects in rebellion; due notice of hostilities to an enemy's merchant vessels; the effect of military operations, such as the capture of Manila, after the signing of the protocol; the right or otherwise of the United States to occupy remote places in the Philippines while the treaty was still pending; the power of the President to authorize the making of tariffs and other statutes in occupied territory by the military power; the President's authority over annexed territory after the signing of a treaty and before Congress had acted; the question whether annexed territory is thereby incorporated into the United States; the question whether inhabitants of annexed regions automatically become subject to the Federal Con-

stitution, and entitled to the personal privileges which the Constitution secures.

See ARMS, RIGHT TO BEAR; ARMY, STANDING; BELLIGERENCY; BLOCKADE; BOUNDARIES OF THE UNITED STATES, EXTERIOR; BOUNDARIES OF THE UNITED STATES, INTERIOR; CIVIL WAR, INFLUENCE OF, ON AMERICAN GOVERNMENT; CLAIMS, INTERNATIONAL; COAST DEFENSE, STRATEGIC PRINCIPLES OF; CONQUEST, RIGHT OF; CONSCRIPTION AND DRAFT; COURTS MARTIAL; CUBA AND CUBAN DIPLOMACY; ENLISTMENT, NAVAL AND MILITARY; FILIBUSTERS TO AID INSURRECTIONS, FOREIGN POLICY OF THE UNITED STATES; HABEAS CORPUS; INDIAN POLICY OF THE UNITED STATES; INSURGENCE IN INTERNATIONAL LAW; INSURRECTIONS, HISTORY OF; INSURRECTIONS, SUPPRESSION OF; INTERVENTION; MARINE CORPS; MARITIME WAR; MARTIAL LAW; MILITARY AND NAVAL EXPENDITURES; MILITARY LAW; MILITARISM; MILITIA; NAVAL VESSELS; NAVY, DEPARTMENT OF; OFFICERS, MILITARY AND NAVAL; PEACE, CONCLUSION OF; PENSIONS, MILITARY AND NAVAL; PHILIPPINE ANNEXATION; PRISONERS OF WAR; REVOLUTION, AMERICAN, SIGNIFICANCE OF; SECESSION CONTROVERSY; SOLDIERS, QUARTERING OF; SOUTH; TERRITORY, ACQUIRED, STATUS OF; UNITED STATES AS A FEDERAL STATE; TREASON; WAR, CARRYING ON; WAR COLLEGES; WAR, DEPARTMENT OF; WAR, INTERNATIONAL RELATIONS IN: WAR POWER, CONSTITUTIONAL; Diplomatic relations with hostile countries by name.

References: J. B. McMaster, *Hist. of the U. S.* (1883-1907); J. Schouler, *Hist. of the U. S.* (rev. ed., 1894-99); J. F. Rhodes, *Hist. of the U. S.* (1893-1906); W. Wilson, *Hist. of the U. S.* (1902); Ward, Prothero, Leathes, Eds., *Cambridge Modern History*, VII (1904); E. M. Avery, *Hist. of the U. S.* (1904-1910); G. W. Greene, *Hist. View of the Am. Revolution* (1865); L. C. Hatch, *Administration of the Revolutionary Army* (1904); *The South in the Building of the Nation* (1909-1910); G. R. Clark and others, *Short Hist. of the U. S. Navy* (1911); E. C. McClay, *Hist. of the U. S. Navy* (1901-1912); J. R. Speers, *Hist. of Our Navy* (1897-1898); T. Roosevelt, *Naval War of 1812* (3d. ed., 1883); T. A. Dodge, *Birdseye View of our Civil War* (rev. ed., 1897); *War of the Rebellion: a Compilation of the Official Records of the Union and Confederate Armies* (1880-1901); *Records of the Union and Confederate Navies* (1894 in progress); H. E. Flack, *Span.-Am. Diplo. Relations Preceding the War of 1898* (1906); F. E. Chadwick, *Relations of the U. S. with Spain* (1910); A. T. Mahan, *Lessons of the War with Spain* (1899); A. B. Hart, Ed., *The American Nation* (1904-1908), see index, *Foundation of Am. Foreign Policy* (1901), ch. ii, *National Ideals Historically Traced* (1907), ch. xviii; bibliography in Channing, Hart and Turner, *Guide to Am. History* (1912).

ALBERT BUSHNELL HART.

WARDEN. An official title applied to officers with various functions. In England, the warden of the cinque ports exercised admiralty jurisdiction; and the churchwardens formed a prudential or administrative committee for parish affairs. In the United States, there is a board of wardens of the port of Philadelphia; the name is regularly used for the officer in charge of a prison or penitentiary; and the chief officer of a borough in Connecticut is called a warden. See **BOROUGH**. **References:** *Bouvier's Law Dictionary* (1897), II, 1210; *Encyclopædia Britannica* (1911), XXVIII, 322.

J. A. F.

WARDS IN CITIES. A term used to designate territorial subdivisions of a city. It originated from the old Teutonic term "war" meaning to protect or defend, and was formerly applied in England to a unit of the military organization of a borough or city responsible for the defense of a gate. Today, city wards are districts of cities established for specific civic purposes, such as units of representation in the city council, and election, police, and taxing districts. They are also important units in the organization of political parties. See **DISTRICTS**, **CITY**; **MACHINE**, **POLITICAL**.

O. C. H.

WARDS OF THE NATION. The census of 1910 gives the Indian population of the United States, exclusive of Alaska, as 304,950, counting as Indians all persons with a recognizable proportion of Indian blood. A large majority are still wards of the nation, legally incompetent to manage their own affairs. As their direct road to full citizenship lies through the land allotment system, as allotments are proceeding at the rate of about 10,000 a year, as a patent in fee issues to about one in every ten allottees, and as the rising generation are starting life with a common school education, the end of the era of Indian wardship is fairly in sight. See **CITIZENSHIP IN THE UNITED STATES**; **INDIANS**, **CONSTITUTIONAL AND LEGAL STATUS OF**. **References:** J. G. James, *Report on Condition of Mission Indians in California* (1874); U. S. Census Bureau, *Report on Indians Taxed and Not Taxed* (1894).

F. E. L.

WAREHOUSE SYSTEM. There are both government and private warehouses, the latter being subject to government regulation when used by the public. The Government maintains warehouses to facilitate the import and export trade, to aid in enforcing its internal revenue laws, and to lighten the burdens of the customs and excise duties. An importer who does not wish to sell his goods immediately, or who wishes to grade, blend, repack or otherwise change them before putting them upon the market, may place them in a government warehouse, if there be one, or in a private "bonded"

warehouse sealed by a government customs official. Duty is not paid until the goods are taken from the warehouse; and merchandise may remain "in any public or private bonded warehouse" for three years.

Tobacco and liquors, both of which are subject to excise duties, may be placed in bonded warehouses until the goods are marketed. There are several bonded warehouses in the United States in which tobacco products of various kinds are manufactured. Likewise, it is customary for wholesale liquor merchants to bottle their "liquors in bond."

The public warehouses of chief importance to the commerce of the United States are those in which grain, cotton and certain other staple commodities are stored and graded in transit. It is necessary for each state to regulate carefully the business of public warehousemen. The commodities that pass through the public warehouses are the great staples of interstate and foreign commerce; and it is especially desirable that the regulations of the states should be as nearly uniform as possible. Up to 1911, nineteen states had adopted a uniform warehouse receipts act. See **BILL OF LADING**; **RAILROAD COMMISSIONS**, **STATE**; **TRANSPORTATION**, **REGULATION OF**.

References: *The Payne-Aldrich Tariff Act* (1910); Commissioner of Corporations, *Report on the Tobacco Industry* (1909), Pt. I, 304; *Ann. Year Book 1910*, 131.

EMORY R. JOHNSON.

WARMING THEIR TOES. The expression, "taking in the boys and warming their toes" dates from about 1890 and signifies the giving of offices or personal advantages to party workers who have helped carry an election.

O. C. H.

WARRANTS. One of the most serious grievances of the colonies was the assertion and exercise of a prerogative of the Crown to issue general warrants for searching private premises in order to obtain evidence of political offenses. This had been the subject of controversy in England and was made the basis of a protest in Massachusetts by James Otis against writs of assistance which were in effect general warrants. The principle contended for was that the privacy of the dwelling house should not be invaded by public officers without the consent of the owner save for the purpose of making an arrest for a crime alleged to have been committed, or for the purpose of seizing property obtained by crime, or made use of in its commission. The result of the improper exercise of the royal prerogative was the embodiment in state constitutions and in an amendment to the Federal Constitution of a provision that warrants of search and seizure shall issue only upon a showing of probable cause supported by oath or affirmation and particularly describing the

place to be searched and the persons or things to be seized (Amend. IV). The guaranty is against unreasonable searches and seizures and only those authorized under a warrant specific as to place and object are regarded as reasonable. The protection afforded by the constitutional provisions is against attempts under the guise of public process to pry into private affairs on mere suspicion that a crime has been committed or contemplated. The principle of this guaranty is violated if the postal authorities open sealed letters in the mail to discover whether improper use of the mails is being made. It is also violated by compelling the production of private papers of the defendant in a criminal prosecution. But under proper warrant the premises of one charged with larceny or receiving stolen goods may be searched in order to take possession of the stolen property, and similarly proper search may be made for intoxicating liquors kept for sale in violation of law, for appliances used in gambling as prohibited by law, for smuggled goods, for goods concealed in evasion of the internal revenue laws, and, indeed, in a great variety of cases where the possession or use of property is in contravention of police or fiscal regulations.

The common law rule is that the dwelling house cannot be entered even by public officers against the owner's consent for service of civil process, that is, in proceedings to recover a money judgment, although it may be thus entered to make an arrest under criminal procedure. A warrant is not always necessary for arresting an individual. For example, a police officer does not need a warrant in order to arrest a person, violating in his presence a municipal ordinance or a person who, he has good reason to think, is guilty of having committed a felony. Moreover, any person, whether a police officer or not, would have the right to arrest another person whom he detects in the act of committing a crime in his presence.

See HOUSES, PRIVATE, CONSTITUTIONAL PROTECTION OF.

References: T. E. May, *Constitutional History of England* (new ed., 1899), ch. xi; T. M. Cooley, *Constitutional Limitations* (7th ed., 1903), 424-434; *Ex parte Jackson* (1877), 96 U. S. 727; *Boyd vs. United States* (1886), 116 U. S. 616. As to writs of assistance in Massachusetts Colony, see appendix to Quincy's *Reports*, 395 *et seq.* E. McC.

WARRANTS, GENERAL. Warrants authorizing searches and seizures not specific as to the place to be searched or the person or property to be seized, and therefore called general warrants, are prohibited by provisions found in the various state constitutions and in the Federal Constitution (Amendment IV). See HOUSES, PRIVATE, CONSTITUTIONAL PROTECTION OF; WARRANTS. E. M. C.

WARWICK, THE KING MAKER. A sobriquet bestowed upon Marcus A. Hanna (*see*) by the Democratic press, because of the consummate skill he manifested, as national Republican chairman, in effecting the nomination and election of William McKinley in 1896 and 1900. The original bearer of the sobriquet was Richard Nevill, Earl of Warwick (*cir.* 1428-1471). O. C. H.

WASHBURN, ELIHU BENJAMIN. Elihu B. Washburne (1816-1887) was born at Livermore, Maine, September 23, 1816. In 1840 he was admitted to the bar, and began practice at Galena, Ill. In 1848 he was a Whig candidate for Congress, but was defeated. He was a delegate to the Whig national convention in 1852, and the next year was elected to Congress, remaining a member of the House, first as a Whig and then as a Republican, until 1869. He was most conspicuous in Congress for his opposition to corrupt attacks upon the treasury and to extravagant land grants to railroads. In 1869 he was appointed Secretary of State under Grant, whose warm friend he was, but resigned in a few days on account of ill health. He was shortly appointed minister to France, where he distinguished himself by courage and tact in dealing with the diplomatic situation in Paris occasioned by the Franco-Prussian war. In 1877 he resigned his post and settled at Chicago, where he died, October 22, 1887. See REPUBLICAN PARTY. References: E. B. Washburne, *Recollections of a Minister to France* (1887); J. F. Rhodes, *Hist. of the U. S.* (1893-1905), VI, VII; R. C. Winthrop, "Career of Elihu B. Washburne" in Mass. Hist. Society, *Proceedings*, IV, (1889).

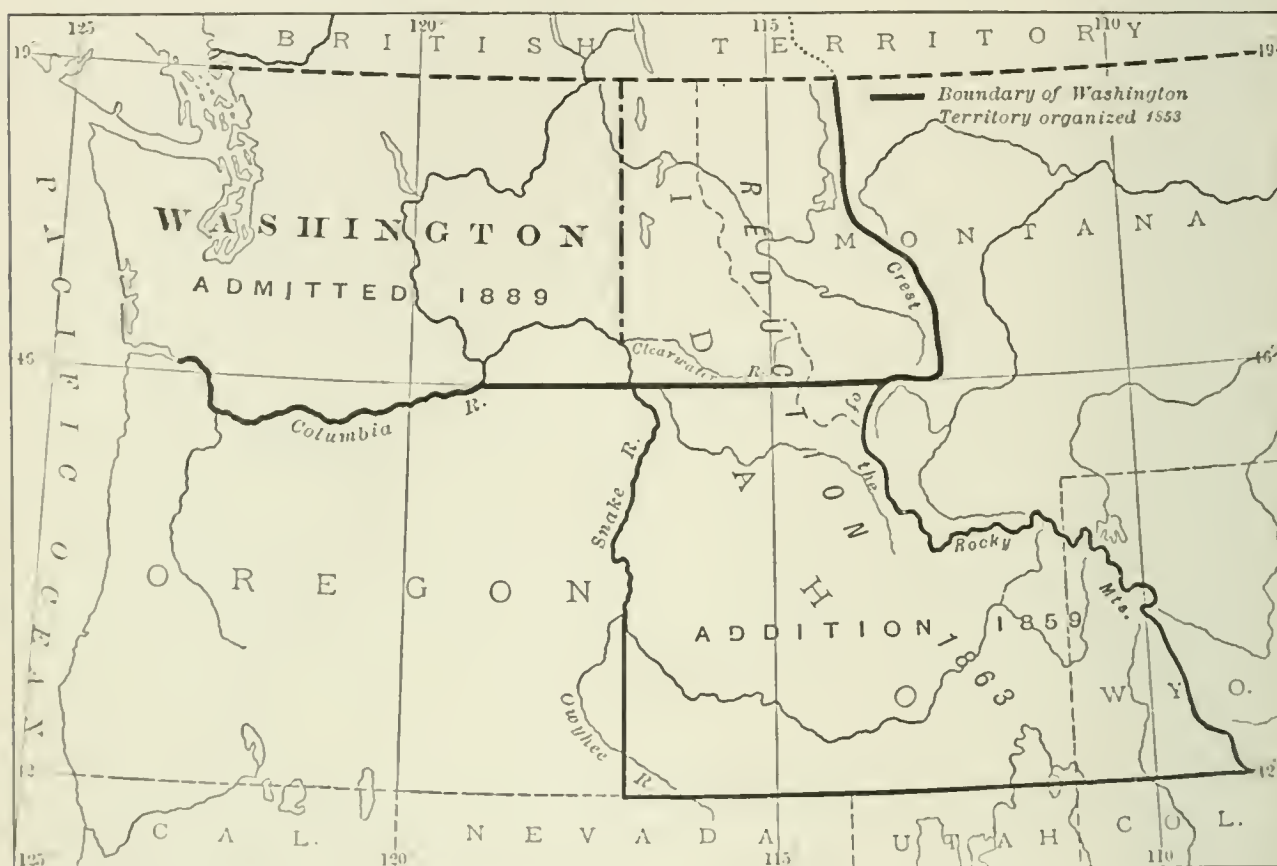
W. MacD.

WASHINGTON. Territorial Settlement of Boundaries.—Washington was a part of the Oregon country and as such had a part in the romantic experiences of discoverers, explorers, fur traders, Indian fighters, and empire builders. The first settlements were made by the Northwest Company of Montreal (1807) in British Columbia and the next by the Americans (The Pacific Fur Company) at Astoria, Oregon (1811) with subsidiary posts at Okanogan and Spokane in Washington. During the War of 1812 the American posts were sold to the Northwest Company, but under the Treaty of Ghent Astoria was restored as an American possession. However, the British companies remained in occupation during the fur-trading period. The treaty of joint occupancy with Great Britain was made in 1818; there was a renewal of its provision in 1827 and the final settlement of boundaries was reached in 1846. Spain relinquished her claims (1795) under the terms of the Nootka Sound Convention (*see*) (1790) with Great Britain. Russia in the Ukase of 1821 asserted her claim to the entire

coast of the Oregon country. This claim was disputed by Monroe's famous message to Congress embodying the "Monroe Doctrine" which declared that the time was past for further colonization by European powers on American soil. The next year (1824) a treaty was made by Russia and the United States fixing the boundary of their claims at $54^{\circ} 40'$. In the following year a similar treaty was made by Russia and Great Britain. These transactions left Great Britain and the United States as the surviving claimants. There was not then a single American settler in the whole region. The British fur traders were in possession but still the Treaty of Joint Occupancy remained in force. American missionaries to the Indians

give nearly all of what is now Washington to the British. At that time there was but one small colony north of the Columbia River yet the Treaty of 1846 was secured with the 49th parallel as the boundary (see FIFTY-FOUR, FORTY OR FIGHT).

Territorial Government.—The provisional government (1843-1848) and the territorial government created eight counties north of the Columbia River. These counties had acquired, in 1853, a population of 3,965. With this slender showing Congress was persuaded to create the territory of Columbia but while the bill was on its final passage the name was changed to Washington. Isaac I. Stevens became the first governor. Under his guidance



BOUNDARIES OF THE STATE OF WASHINGTON, SHOWING TERRITORIAL CHANGES

made their appearance beginning in 1834. Prominent among them were Jason Lee and Cushing Eells but the most famous was Dr. Marcus Whitman who was slain by the Indians in the Whitman Massacre (1847). The missionaries were followed by many American settlers, notably the large caravans of 1843, in which year the provisional government of Oregon was formed.

During that critical period came the presidential campaign of 1844 with the successful war cry of "Fifty-four, Forty, or Fight!" President Polk at once began negotiations on that issue. The British, realizing that settlers gave better foundation for claims of occupation than did fur traders, relinquished claims to what is now Oregon but insisted on the Columbia River as the boundary. That would

the legislature was convened and the government was begun with vigor. Judicial and legislative districts were defined, a system of common schools was provided for, a movement was begun for a territorial university, roads were planned, a state library was begun and plans were laid for quieting the Indian title to the lands by a series of treaties. The three district judges consented to serve as a commission to help the legislators frame the first body of laws. In the first session of the legislature attempts were made to enact laws for prohibition and for woman suffrage, and Congress was memorialized to annex the "Sandwich Islands." Throughout the territorial period Washington manifested an enlightened spirit in laws and toward national affairs. It was a memorial from the Washington legislature (1866) that

spurred on Secretary of State Seward's negotiations for the purchase of Alaska. The territory took vigorous ground in the dispute concerning the possession of the San Juan Islands a dispute which was concluded successfully for the Americans by the arbitration of 1871.

State Constitution.—The people were early ambitious for statehood. In 1878 there convened in Walla Walla a convention to frame a constitution. The document was formally approved by the people but Congress refused admission at that time. The Enabling Act of 1889 included Washington among the four new states to be admitted (Montana, North Dakota, South Dakota, and Washington). Pursuant to that act the present constitution of the state was framed by a convention assembled in Olympia. It was ratified by the people, approved by Congress, and the new state began its career as an integral part of the nation.

The Legislature.—The constitution provides a bill of rights in the thirty-two sections of Article I and then declares that the legislative branch of the government shall consist of a house of representatives of not less than sixty-three nor more than ninety-nine members to serve for two years and a senate of not more than one-half nor less than one-third the number of members of the house of representatives, to serve for four years. In the present legislature, 1913, there are ninety-six representatives and forty-two senators. No member of the legislature may be appointed or elected to any civil office during the term for which he was elected as a legislator. Special legislation is prohibited and no bill shall embrace more than one subject and that shall be expressed in the title. The legislature is prohibited from authorizing any lottery and from granting any divorce. In territorial days many legislative divorces were granted. Annual or continuing appropriations are prohibited. All unexpended appropriations or fractions thereof lapse into the treasury of the state at the end of each biennium. Alien ownership of land is prohibited.

The Executive.—The executive department shall consist of a governor, lieutenant governor, secretary of state, treasurer, auditor, attorney general, superintendent of public instruction, and a commissioner of public lands—all elected for terms of four years. The governor is clothed with ample executive and appointive powers. The lieutenant governor presides over the meetings of the senate and succeeds to the governorship in case of vacancy. Twice since statehood (1901 and 1909) such succession has occurred.

The Judiciary.—The judicial power of the state is vested in a supreme court, superior courts, justices of the peace and such inferior courts as the legislature may provide. At present (1913) there are nine justices of the supreme court and forty-four judges of superior courts. These two higher courts are

courts of record. A casting of lots determined the varying terms of the first justices of the supreme court after which vacancies have been filled for the full terms of six years. The justice having the shortest term to serve is chief justice. This court has original jurisdiction in habeas corpus, and *quo warranto* and mandamus as to all state officers; it has appellate jurisdiction in all actions and proceedings but not to civil actions at law where the sum involved does not exceed two hundred dollars, unless the action involves the legality of a tax, import, assessment, toll, municipal fine, or the validity of a statute. There is a superior court in each county, the judges being elected for terms of four years.

Local Government.—The constitution provides for township organization if desired. Thus far it has not been used except in Spokane county. The county is the local unit. There are thirty-nine counties, each having its officers consisting of auditor, sheriff, clerk, treasurer, prosecuting attorney, assessor, superintendent of schools, engineer, coroner, superior court judge, and county commissioners. Counties, cities, and towns are classified according to population and their powers are graded accordingly. Many of the cities have used their bonding power in great public improvements. Seattle is availing itself of a recent law to organize the port of Seattle, using the power of the County of King to provide more adequate harbor facilities. Some of the cities and rural districts have complied with the local option laws to make prohibition districts. Several of the cities have also adopted the recall (*see*).

Education.—Generous provision has been made by Congress and the state for the maintenance of schools. These include kindergartens in cities, graded schools, high schools, three normal schools, the state college (Agriculture, Mechanic Arts, etc.) and state university. Tuition is free as are textbooks in many of the graded and high schools. The state also maintains a school for the blind, another for defectives, and a reform school.

Parties.—Through most of its history as territory and state, Washington has been Republican in politics. The direct primary law was in operation at the election of 1910, when one United States Senator and two of the three Congressmen chosen were "Insurgent" Republicans. At that same election an amendment to the constitution was adopted giving the suffrage to women.

Population.—The population has increased rapidly in recent years. The territory began with 3,965 in 1853. In 1890 the population of the state was 349,390 and in the census of 1910, 1,141,990. In 1912 the seven electoral votes were cast for Theodore Roosevelt, Progressive candidate.

See CONSTITUTIONS, STATE, CHARACTERISTICS OF; STATE GOVERNMENTS, CHARACTERISTICS OF.

References: C. M. Barton, *Legislative Manual of Washington* (1889-1894); E. S. Meany, *Hist. of the State of Washington* (1909); F. N. Thorpe, *Federal and State Constitutions* (1909), VII, 3963-4010.

EDMOND S. MEANY.

WASHINGTON, BOOKER TALIAFERRO.

Booker T. Washington (c. 1859-) was born a slave near Hale's Ford, Va., about 1859. He was educated at the Hampton Normal and Industrial Institute, where he graduated in 1875, and at Wayland Seminary, Washington. He taught at Hampton from 1879 to 1881, and was then chosen principal of the Tuskegee Institute, Ala., of which institution he is still (1914) the head. His aim has been to fit the negroes for citizenship by making them efficient farmers and industrial workers; and the influence of the school upon the life and ideals of the race has been very great. In 1892 he established the Tuskegee conference, an annual gathering of negroes for report of progress; and in 1900 organized the National Negro Business League. He is the author of numerous books and articles on various phases of the negro question, the most important being *The Future of the American Negro* (1899), *Up from Slavery: Autobiography* (1901); *Tuskegee and Its People* (1905), *Life of Frederick Douglass* (1907), *The Story of the Negro* (1909). See NEGRO PROBLEM.

W. MACD.

WASHINGTON, D. C. The seat of government of the United States; first called the Federal City; originally that portion of the District of Columbia comprised in the L'Enfant plan of 1792; now coterminous with the District. The plan of the streets and avenues of the original city has been extended over the entire territory. See DISTRICT OF COLUMBIA.

C. M.

WASHINGTON, GEORGE. George Washington (1732-1799), first President of the United States, was born at Bridges Creek, Va., February 22, 1732. He served on the staff of Braddock in 1755, and later commanded colonial forces employed in defending the frontier. In 1760 he was elected a member of the house of burgesses, and in the preliminary struggle with Great Britain was one of the leaders of the patriot cause. He was a delegate to the first and second continental congresses, 1774-1775, and June 15, 1775, was elected Commander-in-Chief of the American army. He took command July 3, at Cambridge, Mass., and remained at the head of the army until December 23, 1783, when he resigned. In the discussion and correspondence looking to an improvement of the form of national government he took an active part, presided over the federal convention of 1787, and used his influence to secure the ratifica-

tion of the Constitution. In 1789 he was elected President of the United States, receiving the whole number of electoral votes, 69. In 1792 he was unanimously reelected. Although not strictly a party man, his sympathies were with the Federalists, and his support insured the success of their policies. He upheld the dignity of the Federal Government in his treatment of Genet (1793), paved the way for friendly commercial relations with England by the Jay treaty (1794), and asserted the federal authority in repressing the Whiskey Insurrection (1794). He declined to be a candidate for a third term, and retired to Mount Vernon, where he died, December 14, 1799. See APPOINTMENTS TO OFFICE; EXECUTIVE AND EXECUTIVE REFORM IN AMERICAN SYSTEM; PRESIDENT, AUTHORITY AND INFLUENCE OF; REVOLUTION, AMERICAN, SIGNIFICANCE OF. **References:** J. Marshall, *Life of George Washington* (1804-07), and atlas; P. L. Ford, *True George Washington* (1896); H. C. Lodge, *George Washington* (rev. ed., 1899); W. C. Ford, *George Washington* (1900).

W. MACD.

WATCH DOG OF THE TREASURY. Name applied to William S. Holman, Representative in Congress from Indiana at intervals from 1859 to 1895; otherwise called "The Great Objector." He made it a point to object to all novelties in appropriation bills and thus to defeat them when unanimous consent was needed.

A. B. H.

WATER BOUNDARIES. In open waters, oceans, gulfs, straits, the jurisdiction of a state is usually held to extend to three miles from the low water mark (see JURISDICTION OVER WATERS), though there is a tendency to extend this limit. In case of rivers and other narrow waters in absence of conventional agreements, the boundary is the middle of the water, or in case of navigable waters, the middle of the main channel or *thalweg* (Iowa vs. Illinois, 147 U. S. 1, 1893). The boundary may gradually change through the slow change in the course of a river by wearing away of its banks and alluvial deposits. When a river suddenly changes its course and leaves the old channel, the boundary still remains in the middle of the old channel. The boundary line in the Great Lakes in America and in some other large water areas is fixed by conventional agreement. See BAYS AND GULFS, JURISDICTION OVER; BOUNDARIES OF THE UNITED STATES, INTERIOR; NAVIGATION OF INTERNATIONAL RIVERS; NEWFOUNDLAND FISHERIES DISPUTE; NORTHEASTERN BOUNDARY CONTROVERSY; NORTHWESTERN BOUNDARY CONTROVERSY. **References:** W. M. Malloy, *Treaties and Conventions* (1910), I, 620-723; J. B. Moore, *Digest of Int. Law* (1906), I, 616-621; J. M. Callahan, *Neutrality of the Am. Lakes* (1898).

G. G. W.

WATER CURE. A term commonly referred to as denoting the method of torture occasionally used by the United States soldiers during the Philippine insurrection, 1898-1902, to force Filipinos to disclose desired information. The practice is said to have consisted in pumping the victims full of water until the evidence demanded was given.

O. C. H.

WATER POWER, CONTROL OF. Under the constitutional power to regulate interstate commerce (Art. I, Sec. viii, ¶ 3) the national Government has assumed the right to control navigable streams and development of water powers along such streams to the extent of preventing any obstruction to free navigation. Streams flowing through the territories where all the lands belong to the public domain are, of course, subject to the absolute control of the national Government; but when a territory is erected into a state the unnavigable streams therein pass into the control of the state, and the Federal Government, as the owner of public lands, has only the same riparian rights as private land owners.

Under most of the states the titles to lands along unnavigable streams extend to the middle of the stream, and the streams themselves thus become the property of the land owners, subject, of course, to certain statutory provisions, one of which prohibits the diversion or use of water to the detriment of other riparian owners. The use by a landowner, of water for generating power, after which it is all returned to the channel of the stream, does not violate this restriction unless the dams flood the lands of other owners, or interrupt the regular flow of water to the extent of injuring landowners below. These water power developments do not infringe upon the rights, or violate the statutes of the state, which, therefore, has no direct control over them.

The status above outlined seems to have been well established by the courts, and until quite recent years, to have been accepted by the national and state governments. But the growing importance of the turbine water wheel as a prime motor, the development of power-transmission over long distances, thus concentrating it at points of vantage for industrial purposes, and the fear that the great water powers of the country, and particularly those located in the public domain, may fall into the monopolistic control of great corporations, has led to a reopening of the question of the ownership and control of water powers; and the theory is advanced that natural water-power sites are a part of the public resources of the country, belonging of right to the public at large, and should therefore be under governmental regulation and control; so that franchises for the development and use of water power should be granted only for limited periods of time and upon adequate compensation to the public. It is urged particu-

larly that this is necessary to prevent the acquirement and monopolizing of these water powers by large corporations (see CONSERVATION).

On the other hand it is argued that there is not now, nor is there likely to be in the future, any necessity for government control; that if monopolistic corporations should obtain control of great water powers for improper purposes, they may be dealt with as are other combinations of like character; that the commercial and industrial interests of the country demand that the rapid development of these sources of power should be unrestricted; and that their early development and use will tend to conserve the coal supply of the country. It is also argued that if the investment of private capital be hampered by oppressive conditions, such development is likely to be discouraged and greatly delayed.

See CONSERVATION; POWER FOR INDUSTRY; PUBLIC WORKS, NATIONAL, STATE AND MUNICIPAL; WATER SUPPLY.

References: R. Tavernier and M. O. Leighton, "Public Utility of Water Powers and Their Governmental Regulation" in U. S. Geological Survey, *Water Supply* (1910), No. 238.

SAMUEL WHINERY.

WATER SUPPLY. Quantity.—The important requisites for a municipal water supply are that it shall be sufficient in quantity and of satisfactory quality, not only for domestic use, but for industrial purposes. The quantity of water used in different American municipalities varies greatly with the population and other conditions. The common unit employed to express the rate of consumption is the number of gallons required for each inhabitant per day, usually expressed as the daily per capita consumption. This quantity varies from 50 to 80 gallons in the smaller cities and from 75 to 150 gallons in the larger cities. In the average city of 100,000 or more population the consumption does not ordinarily exceed from 100 to 150 gallons. This includes not only the water actually required for public and private use but that wasted and the leakage from the distributing pipes. In ordinary residences 30 to 50 gallons daily per occupant is an abundant supply for all domestic purposes. In foreign cities the consumption is very much less than in this country. Thus, the total daily per capita consumption in London and in Paris is only about 40 gallons. Some of this large difference is due to the freer use of water in American cities, but the greater part of it is due to carelessness and waste.

Quality.—The quality of the water supply for municipalities is a matter of prime importance, since upon it may largely depend the health of the inhabitants. Impurities in water are of two general kinds; inorganic or dead organic matter, and living organisms. The former usually consists of earthy matter

or decaying vegetable matter held in suspension, or of various minerals such as lime, magnesia and iron held in solution. The impurities held in suspension if in sufficient quantity, make the water turbid or unclean, and if in excess may render the water unwholesome and unfit for some industrial purposes. Minerals held in solution may not affect the appearance of the water but may cause the property called hardness which, if excessive, makes the water unsatisfactory for laundry and steam boiler use. But neither the turbidity nor the hardness of water may be injurious to persons drinking it.

Living organisms in impure water consist largely of microscopic plants and animals, of a low order, not usually visible to the naked eye, and they may not affect its clear and sparkling appearance. They can be discovered only by biological examination under the microscope. The great majority of these organisms are not, so far as we know, injurious to health, though some of the minute plants, as they mature and decay, may impart to the water a disagreeable smell and taste. But some of the bacteria are known to be the direct cause of specific diseases. Thus, it is now definitely known that typhoid fever is caused by a specific germ, which in the great majority of cases enters the human system through the medium of drinking water; and most of the great epidemics of that disease have been traced to the use of water containing that germ. In a number of American cities where this disease had been especially prevalent the cases and deaths have been reduced to a small fraction of their former number after the water supply had been properly purified.

Purification.—Impure water may be purified by chemical treatment, or by filtration, or by a combination of the two. The chemicals mostly used are sulphate of copper or hypochloride of lime for destroying organisms, or sulphate of alumina for coagulating and precipitating the suspended matter that causes turbidity. Where the water is objectionably hard it may be treated with lime, soda or other chemicals, as may be indicated in each case, to precipitate the minerals held in solution.

Filtration is accomplished by passing the water through beds of selected sand which not only strains out the suspended matter but also removes the minute organisms or bacteria contained in the water. Filtration is very effective for the latter purpose. In good practice from 96 to 99 per cent of the bacteria may be thus removed.

Two methods of sand filtration are in common use; in the one, called slow sand filtration, the water, usually without previous treatment, is allowed to percolate slowly through a bed of sand which is removed and cleaned at long intervals. In the other, called mechanical filtration, the water is first treated with a coagu-

lant (usually alum) and then passed through beds of sand at a comparatively high velocity, the sand beds being frequently cleaned or washed by mechanical means without removing the sand from the containing basins. In some cases the coagulant used is lime and sulphate of iron, the former of which has the effect of removing a part of the hardness of the water as well as other impurities.

The water of rivers flowing through thickly populated districts or through cities whose sewage is discharged into them, is usually more or less contaminated and should not be used for domestic purposes without purification. This is true also of water from shallow wells in thickly populated regions or in towns and cities.

Public Water-Works.—In a large majority of American cities the water supply is owned and operated by the municipality. This is true to a larger extent than in the case of other public utilities. Since a pure, abundant and reliable water supply is one of the most important requisites of urban life, it is important that the supply should be wholly under the care and control of the municipal authorities, and this condition can be best secured where the municipality owns and operates the entire plant.

The cost of constructing water supply plants is usually met by the sale of municipal bonds. To provide for the payment of interest and sinking fund and to meet the expenses of maintenance and operation, consumers are charged for the water supplied to them in accordance with an established scale of "water rates" in each city.

Measuring.—Two methods are in use for determining the quantity of water supplied to consumers, each having its appropriate scale of water rates. In the first, a meter is placed upon each supply, and the actual quantity of water consumed is thus ascertained and charged for; In the second the charge is based upon the number and character of the fixtures in each residence through which the water is used, or upon the number of persons living in each house. This method assumes that two houses equipped with similar fixtures or occupied by the same number of persons will consume the same quantity of water. In practice, however, this is found to be far from true, as one family may use water more freely than another or may actually waste large quantities, and if each is charged the same sum it may be, and usually is, inequitable.

For this reason the meter system is more just and reasonable, since under it each consumer pays for the actual quantity delivered to him and no more; the practice of metering each house is therefore growing, and meter charges are destined to supersede all other methods of taxation for water privileges. It is sometimes argued against the meter system

that it is likely to restrict unduly the use of one of the prime necessities of life, particularly among the poorer classes. To this it may be replied that the rates are so low as to make water even when very freely used, one of the cheapest commodities of living; and with the general use of meters, the enormous waste of water is likely to be prevented, so that the rates charged to all consumers may be materially reduced.

Water Franchises.—Where water is supplied to a city by a private corporation or company, under a franchise or contract, there are usually provisions allowing the municipality to take over the plant at the end of a period of years at a valuation to be agreed upon; but in too many cases the method of arriving at this valuation is not set out with sufficient clearness and detail and in a great majority of cases where the municipality has undertaken to exercise this right, complications and disagreement has arisen as to the proper valuation of the property, tangible and intangible, to be surrendered. Questions of this character have usually to be settled by reference to the courts or to a board of arbitrating commissioners. It is, therefore, important in granting franchises for water supply, to state very clearly and explicitly how the value of the property shall be determined in case it is taken over by the municipality. In these franchises the maximum water rates to be charged are usually stated, and there should be a provision for revising these rates at stated times in case conditions make it desirable or necessary to do so.

See AQUEDUCTS; CONSERVATION; HEALTH, PUBLIC REGULATION OF; MUNICIPAL OWNERSHIP; POWER FOR INDUSTRY; PUBLIC WORKS, NATIONAL, STATE AND MUNICIPAL.

References: H. E. Turneaure and H. E. Russell, *Public Water Supplies* (2d ed., 1911); A. P. Folwell, *Water Supply Engineering* (2d ed., 1909); Allen Hazen, *Clean Water and how to Get it* (1907); J. T. Fanning, *Treatise on Water Supply Engineering* (17th ed., 1909); W. P. Mason, *Water Supply from the Sanitary Standpoint* (3d ed., 1909); *Am. Year Book, 1911*, 456-458, *ibid.*, 1912, 287-289.

SAMUEL WHINERY.

WATERLOO. A defeat at the polls which because of its decisiveness nullifies all further political ambition of the loser and ends his political career. The term obviously originated from the fact that Napoleon's political ambitions were ended at Waterloo.

O. C. H.

WATERWAYS, ARTIFICIAL. See CANALS AND OTHER ARTIFICIAL WATERWAYS.

WATERWAYS, NATURAL, REGULATION OF. Legislative and Executive Methods.—The national Government has jurisdiction, as re-

gards navigation, over all the waterways in the United States that may be used in interstate commerce (see RIVERS, JURISDICTION AND NAVIGATION OF). The River and Harbor Appropriations Act dates from 1870. From that time until 1910 the act was usually passed upon alternate years, the only appropriations for river and harbor work during intervening years being those included in the Sundry Civil Bill to pay for work previously authorized by a river and harbor act. In 1910, the policy of passing an annual river and harbor act was adopted.

Each River and Harbor Act calls upon the Secretary of War to survey and report upon projects for improving inland waterways. These surveys are made by the Corps of Engineers of the United States Army. The engineer officer in charge of a particular survey makes a report to the chief of Engineers who submits the report to the Board of Engineers for Rivers and Harbors, created by the law of June 13, 1902. The opinions of this board together with the views of the Chief of Engineers are submitted by him to the Secretary of War who transmits the report to the House of Representatives. The House committee on rivers and harbors prepares a bill making appropriations for such new works as in its judgment are meritorious and commercially justifiable, and for the continuance of such improvements as have previously been authorized.

The execution of works authorized by Congress is intrusted to the Secretary of War, the Chief of Engineers and the Engineer Corps. Usually the United States has its work done by contract.

Technical Methods.—When the current of a river is not strong and when the depth of channel at low water is, or can be made, sufficient to meet the needs of navigation, the river is regulated by dredging of the channel, by revetment of the banks when needed, and by the construction of cut-offs at sharp bends in the stream. Open river navigation is provided for. When the river has a relatively steep gradient, slack water navigation is secured by construction of dams and locks at various points. There are two general types of dams employed for increasing the depth of rivers—fixed and movable dams. The movable dam favored in the United States is constructed in small sections that may be lowered to the bottom of the stream during the periods of high water and may be raised into position during the lower stages of water. Vessels then use the locks to pass the dam.

Atlantic Waterways.—The inland waterways of the United States include the Great Lakes and four groups of rivers—the Atlantic, Gulf, and Pacific groups, and the Mississippi system. All the important rivers flowing into the Atlantic—the Hudson, Delaware, Potomac, James, Savannah, St. John, and numerous

shorter ones—have been improved in their tidal portions, so as to establish ship channels from the sea to important seaports. Few of the rivers tributary to the Atlantic are now much navigated above their tidal sections; although many of them are used to some extent.

Gulf Waterways.—Of the rivers tributary to the Gulf, the most important are those that discharge their waters into Mobile Bay. The Alabama River has been made navigable as far as Montgomery, for vessels drawing three and one half feet of water. The Tombigbee River is navigable for vessels of three feet draft from Columbus, Miss., to the Bay, a distance of 341 miles. Its tributary, the Warrior (called the Black Warrior in its upper reaches) reaches the Alabama coal fields. The Warrior and Tombigbee Rivers are being canalized and slack-watered by the construction of locks and dams that will, in the near future, establish a permanent six-foot waterway from the Birmingham district to Mobile. The rivers of Mississippi, Louisiana and Texas, other than the Mississippi River—which will be spoken of separately—are of minor importance above their tidal sections.

Pacific Waterways.—There are two important river systems discharging their waters into the Pacific, the Columbia system, and the California rivers. In the California valley, the San Joaquin River flows northward into San Francisco Bay, and the Sacramento drains the northern half of the great valley. The San Joaquin River has been deepened to nine feet as far as Stockton, forty-five miles from its mouth. The Sacramento River has been given a seven foot low-water channel to the city of Sacramento, sixty-one miles from the mouth of the river.

The principal river of the Pacific Coast is the Columbia which has two important affluents—the Willamette and the Snake rivers. From Portland, on the Willamette twelve miles from the Columbia and one hundred and ten miles from the sea, the original channel of ten to fifteen feet in depth has been deepened to twenty-five feet. At the Cascades of the Columbia, a canal has been built and at The Dalles, a canal $8\frac{1}{2}$ miles in length is being constructed. From Celilo Falls above The Dalles to the mouth of the Snake River, a distance of one hundred and twenty-four miles, the river has been improved. The Snake River for two hundred and sixteen miles has been made navigable and works now in progress will give the river a low-water depth of five feet.

Mississippi System.—The Mississippi River and its tributaries furnish nearly 14,000 miles of river navigation; 2,500 miles of this distance now provide channels six feet or more in depth during low stages of water. At and above The Passes, for 320 miles, the river is 30 or more feet deep. For the remaining 790 miles to the mouth of the Ohio, there is a minimum

channel depth of nine feet. The river during most of the year now has a depth of eight feet throughout the 182 miles from Cairo to St. Louis. Above St. Louis, during some portion of each year it is less than six feet. The United States Government is now improving the river with a view to establishing an all-the-year-round channel with a minimum depth of six feet from St. Paul to St. Louis, of eight feet from St. Louis to Cairo, and of nine feet below that point (*see LAKES-TO-GULF-WATERWAY; MISSISSIPPI AND MISSOURI RIVER COMMISSIONS*).

The engineering problems connected with the control of the Mississippi River are exceptionally difficult. In many portions, depth of channel can be secured only by narrowing the river; in many sections the banks must be protected by revetment, from erosions while in the lower portions of the river expensive levees must be constructed and maintained. Fortunately the revetment and levee works have been so successful during recent years as to afford much encouragement. The river is subject to great variations in volume. With a view to reducing floods, at least slightly, and increasing the flow of water during the dry season, five dams have been constructed in the upper part of the river in northern Minnesota, but it is probable that the volume of water thus far impounded has had little or no effect in the regulation of floods or in the maintenance of a navigable channel.

An effort is now being made to regulate the Missouri effectively for navigation from Kansas City to St. Louis. The River and Harbor Act of 1911 appropriated \$600,000 to begin work "with a view to securing a permanent six-foot channel between Kansas City and the mouth of the river."

Ohio System.—The United States is now at work upon a project that will give the Ohio a minimum channel from Pittsburg to Cairo of nine feet in lowest stages of water. Fifty-four dams and locks are being constructed at a cost of \$63,000,000 (*see CANALS AND OTHER ARTIFICIAL WATERWAYS*). The Monongahela River by means of dams and locks has been converted into a slack water channel as far as Fairmount, West Virginia, one hundred and twenty-eight miles from Pittsburg. The Allegheny River has been made a slack water stream of eight feet depth for twenty-five miles from its mouth.

The Great Kanawha has been converted into a slack water stream six feet deep for ninety miles. The Little Kanawha has been similarly treated for forty-eight miles; the Muskingum River for ninety-one miles. The Cumberland River, during eight months of the year has a navigable channel three feet deep as far as Nashville; light draft vessels ascend as far as Burnside, Ky. The Tennessee River has a channel five feet in depth from Chattanooga to Riverton, Alabama, and of six feet from River-

ton to its mouth. Serious obstructions to the river at shoal places in northern Alabama have been overcome by lateral canals.

Great Lakes.—The navigation of the Great Lakes has been improved by constructing and deepening harbors, by constructing a canal with locks on each side of the St. Mary's River, and by deepening the channel through the St. Clair flats and the Detroit River (see LAKES, JURISDICTION AND NAVIGATION OF).

Difficulties.—The effectiveness of waterway improvements in the United States has suffered because of the absence of a general system or plan in their development of our waterways. The number of works undertaken is too large to permit of the speedy completion of the projects of greatest importance. Thus far there has been but little coöperation between the Federal Government and the states in carrying out a program of waterway development. There should be a distribution of the burdens among the nation, the states, the cities and the beneficiary private organizations. If this can be brought about, the work may be carried on much more rapidly.

See CANALS AND OTHER ARTIFICIAL WATERWAYS; DISCRIMINATION IN RAILROAD RATES; ELKINS ACT; ERIE CANAL; INTERSTATE COMMERCE COMMISSION; MONOPOLIES; NEW YORK; PUBLIC SERVICE CORPORATIONS; TRANSPORTATION, REGULATION OF.

References: U. S. Chief of Engineers, *Annual Reports*; U. S. Commissioner of Corporations, *Report on General Conditions of Transportation by Waters, Transportation by Water in the U. S.* (1908), Pt. II; E. R. Johnson, *Ocean and Inland Water Transportation* (1906), *Inland Waterways, Their Relation to Transportation* (1893).

EMORY R. JOHNSON.

WATSON, THOMAS EDWARD. Thomas E. Watson (1856-) was born in Columbia (now McDuffie) county, Ga., September 5, 1856. In 1875 he was admitted to the bar. He was a member of the Georgia house of representatives in 1882-83, and in 1888 a Democratic presidential elector at large. He shortly joined the Populist party, and in the Fifty-second Congress, 1891-93, was a member of the House. He failed of reelection in 1892, and again in 1894, though claiming in each case to have been rejected because of a fraudulent count. From 1891 to 1894 he edited the *People's Party Paper*, published weekly at Atlanta. In 1896 the Populist national convention at St. Louis nominated him for Vice-President. In 1904, when an effort was made to revive the Populist movement, he was nominated by the People's party for President, and received 114,753 votes. In 1905 he established in New York City *Tom Watson's Magazine*, and later published *Watson's Jeffersonian Magazine* and the *Weekly Jeffersonian*. He has written a *Life of Thomas*

Jefferson (1900) and *Life and Times of Thomas Jefferson* (1903). See POPULIST PARTY. W. MACD.

WEALTH, NATIONAL. **Income Tax Method.**—Three methods of statistically measuring the wealth of a country have been experimented with. The first is that of the late Sir Robert Giffen who estimated the income and wealth of Great Britain on the basis of the income tax returns for each kind of property, which he capitalized at a given rate. Land was taken as worth twenty-six times its annual value, houses fifteen times, quarries, mines, etc., four times, gas works, twenty-five times, railroads, twenty-eight times, etc. The capitalized value in Great Britain in 1885, of the incomes then returned, was fixed at £7,619,751,000, to which was added certain other sums which escaped taxation, making the total income bearing capital £8,577,436,000. Property not bearing income, such as furniture, art works, etc., and government and local property, were added to bring the total to £10,037,646,000. Many elements of uncertainty which enter into the calculation Giffen admitted and explained.

Inheritance Tax Method.—The second method was used by M. de Foville who estimated the wealth of France on the basis of the inheritance taxes (article "Richesse" in *Dictionnaire des Finances*), calculating that the mean interval between generations is about thirty-six years. This would mean that one thirty-sixth of the total wealth of France passes by succession or donation each year; and on this basis 225,000,000,000 francs was figured as the total private wealth of France. This basis obviously omits many items which go to make up the wealth of the country.

General Taxation Method.—In the absence of uniform income or inheritance taxes, neither of these methods of estimating the national wealth is applicable to the United States. The first official attempt to estimate the wealth of the United States was made in connection with the census of 1850. The estimate has since been continued with each census, and again in 1904. The results of these estimates may roughly be summarized as follows:

Year	Wealth	Per Capita
1850	\$ 7,135,780,228 (taxable)	\$ 308
1860	16,159,616,068 (taxable)	511
1870	21,954,814,806 (taxable) (<i>gold basis</i>)	621
1880	43,642,000,000 (taxable and exempt)	870
1890	65,037,091,197 (taxable)	1,026
1900	88,517,306,775 (taxable)	1,165
1904	107,104,211,917 (taxable)	1,234

In other words, while the population of the United States increased a little more than threefold in the fifty years from 1850 to 1900, the wealth is shown to have increased something over thirteenfold; while the increase on the per capita basis was fourfold.

WEALTH, NATIONAL

The actual wealth of the country, meaning the tangible value of its assets and immediately available resources, has increased in the half century to a much greater extent than these figures indicate.

The elements entering into the calculations of the earlier censuses are not definitely known, although they are supposed to be about the same as those used in the later censuses, as indicated in the following tables from reports of the Census Office:

sented in any of the items cited as a lien upon them. The capital stock of the banks and trust companies of the United States, and their accumulated surplus may be cited as an illustration. This capital was \$1,957,138,888 in 1910, with a surplus of \$1,980,822,386 (*Comptroller's Report, 1910*). There were deposits of \$15,859,583,644, of which sum \$4,070,486,246 were deposits in savings banks. More or less of these great sums represent amounts duplicated in the above analysis, but

Form of Wealth	1900	1904
Total -----	\$88,517,306,775	\$107,101,211,917
Real property taxed -----	46,324,839,231	55,510,247,564
Real property exempt -----	6,212,788,930	6,831,244,570
Live stock -----	3,306,473,278	4,073,791,736
Farm implements and machinery -----	749,775,970	844,989,863
Gold and silver coin and bullion -----	1,677,379,825	1,998,603,303
Manufacturing machinery, tools, etc. -----	2,541,046,639	3,297,754,180
Railroads and their equipments -----	9,035,732,000	11,244,752,000
Street railways, etc. (A) -----	3,495,228,359	4,840,546,909
All other (B) -----	15,174,042,540	18,462,281,792
(A) Street railways, etc. -----	3,495,228,359	4,840,546,909
Street railways -----	1,576,197,160	2,219,966,000
Telegraph systems -----	211,650,000	227,400,000
Telephone systems -----	400,324,000	585,840,000
Pullman and private cars -----	98,836,600	123,000,000
Shipping and canals -----	537,849,478	846,489,804
Privately owned waterworks -----	267,752,463	275,000,000
Privately owned electric light and power stations -----	402,618,653	562,851,105
(B) All other -----	15,174,042,540	18,462,281,792
Agricultural products -----	1,455,069,323	1,899,379,652
Manufacturing products -----	6,087,151,108	7,409,291,668
Imported merchandise -----	424,970,592	495,543,685
Mining products -----	326,851,517	408,066,787
Clothing and personal ornaments -----	2,000,000,000	2,500,000,000
Furniture, carriages, etc. -----	4,880,000,000	5,750,000,000

Michael Mulhall, in his *Industry and Wealth of Nations*, estimating the wealth of the United States, and including practically the same items, places the total value of property at \$79,567,275,000 in 1900, a per capita wealth of \$1,125. For the same year Mulhall's estimates place the wealth of Great Britain at \$57,453,899,000—per capita, \$1,455; France,, \$47,156,385,000—per capita, \$1,228; and Germany, \$39,185,058,000—per capita, \$751. He suggests that the only satisfactory method of arriving at the actual and comparative wealth of the principal nations would be by a coöperative or collective undertaking, to which four or five of the nations should appoint commissioners, who would agree upon a uniform basis of valuation. Mulhall's figures do not agree with those commonly accepted, which give to France the highest per capita wealth of any nation.

Defects of the Calculations.—Neither of the three methods above outlined can be regarded as satisfactory or conclusive. They are all based upon the physical and tangible evidences of wealth, and do not include all of these. From the wealth of the United States, as above indicated, are omitted such tangible items as forest products, the fisheries, and the accumulations of personal property not repre-

by no means all of them. The profits on imported merchandise are not represented; neither are the profits on the manufactured goods and agricultural products sold—the values given being those at the factory and on the farm. Indeed, all the earnings of industrial enterprises are omitted, including railroads, the latter representing dividends of \$275,289,000 in 1910. There is no estimate of the value of accumulated stocks of goods and products. So also with individual earnings, which represent an enormous sum, some of it elsewhere included and much of it consumed as it is earned, but not all of it by any means. No estimate of the wealth of a nation can approach completeness which fails to take cognizance of the earning capacity of the people. Indeed the individual energy of the people, as represented in wages, salaries and profits, is the source of all wealth, outside of natural resources. There are also potential values existing in forests, mines, quarries and water powers, difficult to estimate, but none the less real, and constituting a large part of the tangible wealth of the country and in many instances held as such with a view to future development. It is difficult to understand why the shipping and canals of the country should be included in such an estimate, while the

value of the docks and wharves is omitted. Improvements on rivers and harbors, representing the expenditures of large sums of money, add to the wealth of the country, and none the less so because they are as a rule conducted and paid for by the Government. But government property, which appears to be wholly omitted from the estimate, except in the case of coin and bullion, is just as much a part of the nation's wealth as though it was privately owned. It is not income-earning property as a rule; but the same is true of a large proportion of the privately owned property. Other omitted items are the value of patents, of copyrights, of public franchises, and the good will of business—representing an enormous total, but beyond the power of the statistician satisfactorily to estimate. There are held in this country foreign government bonds and stocks of foreign corporations, aggregating great sums. A lack of proper classification in the reports renders it impossible to discover whether other forms of wealth, which suggest themselves, such as the endowment of colleges and universities, are included or omitted. One great source of wealth, which, since it earns wealth, must be defined as wealth, is credit, upon which a large proportion of the business of the country is carried on. Finally, there remains what is commonly described as the unearned increment of real property, which largely escapes taxation, and which is not included in the value of real property, as stated in the above table. The value of real property, as given is based upon the assessed values prevailing in different sections, corrected and increased as the result of special inquiries. These corrected values are far below the potential and actual values which exist in most of the larger municipalities of the country, and which are increasing in a much faster ratio than that indicated in the census reports for 1900 and 1904. The conclusion is inevitable that the wealth of the United States, actual and potential, has been very greatly understated in the census reports.

See ASSESSMENT OF TAXES; BANKING METHODS; BANKRUPTCY AND COMMERCIAL FAILURES; CONSERVATION; DEBT, PUBLIC; PRINCIPLES OF; LABOR AND WAGES; MONEY, THEORY OF; PUBLIC PROPERTY; REPUDIATION OF PUBLIC DEBTS; STATISTICS; STATISTICS, OFFICIAL COLLECTION OF; TAXATION, PRINCIPLES OF.

References: R. Giffen, *Growth of Capital* (1897); M. G. Mulhall, *Industries and Wealth of Nations* (1899); U. S. Census Bureau, *Report of Tenth Census on Valuation, Taxation, and Public Indebtedness* (1884), *Report of Eleventh Census on Wealth, Debt, and Taxation* (1892-1895), *Report of Twelfth Census on Wealth, Debt, and Taxation* (1907); *Am. Year Book*, 1911, 20-32, 271, 327, *ibid*, 1912, 311-363.

S. N. D. NORTH.

WEATHER BUREAU. The Weather Bureau, one of the bureaus of the Department of Agriculture (*see* AGRICULTURE, DEPARTMENT OF), is under the direction of a Bureau Chief. The main work of the Bureau falls into two divisions: the prosecution of scientific research into the problems of weather and weather-forecasting; and the Weather Signal Service. The Weather Bureau also conducts special climatological and meteorological investigations into such matters as the flow of water in streams, irrigation (*see*) and reclamation (*see*) projects, and problems of forest and plant growth. The scientific research of recent years has dealt with the exploration of the upper atmosphere by means of kites and balloons, with the study of atmospheric electricity and magnetism, solar radiation and evaporation, and the preparation and publication of pilot and meteorological charts of the oceans and great lakes. The Weather Signal service attempts to forecast changes in the weather, and especially to forecast the approach of hurricanes, and to give due notice to mariners and other interested members of the public. Daily forecasts are prepared and published both independently by the Bureau in the form of station weather maps, and by the newspapers in the form of "commercial weather maps." Since March, 1910, regular weekly forecasts have also been published, which have proved valuable, particularly in connection with the breaking-up of continued drought or the approach of cold waves or heavy snows. Special storm signals are displayed to warn mariners of impending storms along the coast and at sea, and special flood-warnings are sent out to persons liable to damage by impending river floods. The basis of the work of weather-forecasting consists of over fifty official weather stations scattered over the United States at which regular observations are taken and telegraphed to the head office of the Bureau at Washington.

The publications of the Weather Bureau comprise the daily weather maps issued at Washington, and at stations throughout the country; the *National Weather Bulletin*, issued monthly from October to March, and weekly during the remainder of the year, at Washington; the *Snow and Ice Bulletin*, issued weekly during the winter; the monthly *Weather Review*; the quarterly *Bulletin of the Marine Weather Observatory*; the *Annual Reports*, and occasional bulletins dealing with miscellaneous topics.

See AGRICULTURE, RELATIONS OF GOVERNMENT TO; NAVIGATION, REGULATION OF.

References: Department of Agriculture, *Annual Reports*; Chief of the U. S. Weather Bureau, *Annual Reports*. A. N. H.

WEBSTER, DANIEL. Daniel Webster (1782-1852) was born at Salisbury, N. H., January 18, 1782. In 1805 he was admitted

to the bar at Boston, but in 1807 removed to Portsmouth, N. H. From 1813 to 1817 he was a member of Congress, opposing the War of 1812. Returning to Boston, he sat in the Massachusetts constitutional convention of 1820, and from 1823 to 1827 represented the Boston district in Congress. He opposed the tariff of 1824, and supported Crawford for the presidency. In 1827 he was elected to the Senate, retaining his seat until 1841. Following a change of public opinion in New England, he supported the tariff of 1828. His arguments in the Dartmouth College case (*see*), 1818-19, and in numerous other leading cases in which he appeared, and his Bunker Hill address of 1825, together with his reply to Hayne, in 1830, stamped him as the greatest American orator and constitutional lawyer of his time. He was a Whig aspirant for the presidency in 1836, but received only the electoral vote of Massachusetts; and he failed of renomination in 1840. From 1841 to 1843 he was Secretary of State, and concluded the Ashburton treaty of 1842 with Great Britain, thus settling the Maine boundary controversy. From 1845 to 1850 he was again in the Senate, before which, on March 7, he made his memorable speech on behalf of the compromise measures. In the same year he again became Secretary of State, and died in office, October 24, 1852, at Marshfield, Massachusetts. **See** COMPROMISE OF 1820; GREAT BRITAIN, DIPLOMATIC RELATIONS WITH; WHIG PARTY. **References:** G. T. Curtis, *Life of Daniel Webster* (1870); J. W. McIntyre, Ed., *Writings and Speeches of Daniel Webster* (1903); P. Harvey, *Reminiscences and Anecdotes of Daniel Webster* (1877); H. C. Lodge, *Daniel Webster* (rev. ed., 1898); J. B. McMaster, *Daniel Webster* (1902).

W. MACD.

WEED, THURLOW. Thurlow Weed (1797-1882) was born at Cairo, N. Y., November 15, 1797. He served as a private in the War of 1812. In 1817 he became assistant editor of the *Albany Register*. After further newspaper experience he entered the office of the *Rochester Telegraph*, which supported DeWitt Clinton and John Quincy Adams, and in 1825 bought the paper. The next year he established the *Anti-Mason Enquirer*, and presently became a leader of the Anti-Masonic movement (*see*). In 1830 he founded the *Albany Evening Journal*, of which he retained the editorship and control until 1865. Opposing both Jackson and the nullification Democrats, he contributed powerfully to the establishment of the Whig party, and was for many years one of its most influential leaders. He was a master in party argument. With the help of Seward and Greeley, he broke the power of the Albany Regency (*see*), but severed his relations with Greeley on a question of office. He aided in the establishment of the Republi-

can party, and in 1860 urged the candidacy of Seward; but he supported Lincoln after the latter's nomination, and again in 1864. In 1861 he was sent to Europe as an unofficial agent in the interest of the Union cause. He died in New York City, November 22, 1882. **See** BOSS AND BOSS RULE; NEW YORK; REPUBLICAN PARTY. **References:** Thurlow Weed, *Autobiography* (1883); T. W. Barnes, *Memoir of Thurlow Weed* (1884); A. S. Alexander, *Pol. Hist. of the State of New York* (1906).

W. MACD.

WEIGHTS AND MEASURES, STANDARDS OF. The people gave Congress power to "fix the standard of weights and measures" and "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers" (Const. Art. I. Sec. viii, ¶¶ 5, 18), thus making plenary the federal control of weights and measures. Congress has never fixed the national standards by law in a manner satisfactory to metrologists (compare the model laws of Denmark or Switzerland) but has taken several steps in that direction.

(1) A statute of Mar. 2, 1799, required the surveyor of each port to standardize his measures to comply with the customs clause "all duties, imposts, and excises shall be uniform throughout the United States" (Art. I, Sec. viii, ¶ 1).

(2) A statute of May 19, 1828, adopted the troy pound brought from London by Gallatin as the standard for coinage (now superseded by an act of Mar. 4, 1911, by the troy pound of the Bureau of Standards).

(3) A statute of June 14, 1836, ordered that all states and custom houses be supplied with sets of standards made and adjusted by the Office of Standard Weights and Measures of the Treasury Department.

(4) A statute of July 28, 1866, legalized the metric system for all purposes; and under resolution of July 27, 1866, all the states were provided with standards of the international metric system (like provision was later made Mar. 3, 1881, for the so-called "land grant colleges").

(5) A statute of March 3, 1901, established the National Bureau of Standards for the construction, custody, and verification of standards and for investigations involving precise measurements.

As Congress had not adopted a single "universal standard to which the wise and the honest can repair" a chaos of weights and measures resulted from the assimilation within our domain of local standards—the Spanish vara, French toise, English yard, and international meter. Many laws, state and national, fixed units and standards for local or special uses and diversity arose, especially as to capacity measures. Even the common weights and measures of colonial times, supposedly British, showed confusing differences.

In 1824, the English Standards—deposited in the Houses of Parliament—were destroyed by fire. An approximate restoration has been effected. England, however, abandoned the old bushel and the troy pound, and adopted a larger gallon so that all American capacity measures now differ from those of England and Canada. The act of 1866 gave rise also to a value for the American yard slightly different from that of England and changes were detected in the old bronze standard of the American yard. Hence the Federal Government decided (April 5, 1893) to derive the yard and pound—and necessarily all other units—from the newly received international meter and kilogram—the world's most perfect standards of length and mass. Hence these are now the fundamental standards of measurement for the United States.

The standard weights and measures of the United States are those of the metric system and the pound, yard, gallon, bushel and their derivatives. The exact values of the older units were left by Congress to be fixed by the Treasury Department. The legal length of the American yard is exactly 3600/3937 international meter, and the inch, 100/3937 meter. The American standard gallon is 231 cubic inches thus derived, and the standard bushel is 2150.42 cubic inches. The avoirdupois pound is .45359243 kilogram and the troy pound 5760/7000 of this value. The tables based on these units are given in textbooks and in their complexity sharply contrast with the simple decimal units of the metric system.

From the units having exact values fixed by the national Government are derived many groups of units accepted only by local usage. Many of these are ambiguous and obscure, others vary with the industry or locality. Of still less sanction are the colloquial units having only the homely uses of the rule of thumb such as the "hands high." While the Government tolerates any useful measures in industry and trade if not conducive to fraud or confusion, usage tends to become restricted to a few legally defined units based upon international standards.

The fundamental standards of the United States are deposited in the National Bureau

of Standards. They are made available to the public through the standards supplied to the states by the Federal Government. For more precise uses, the Bureau of Standards also directly calibrates manufacturers' standards of all kinds, thus ensuring accuracy of products at the outset in the factory and the laboratory. Commercial and trade standards are regulated through state, county, and city laws and ordinances, enforced more or less efficiently by local officials.

In all phases of the subject the National Bureau of Standards coöperates to maintain the highest efficiency whether in local inspection of trade measures or the most refined measurements known to science.

See BUSINESS, GOVERNMENT RESTRICTION OF; COINAGE AND SPECIE CURRENCY IN THE UNITED STATES. HENRY D. HUBBARD.

WELFARE SYSTEMS. Welfare systems comprise the organized efforts of employers to render services to their employees over and above the payment of wages. All large establishments now have some such efforts organized, as for example lunch rooms, rest rooms, swimming baths, training schools for promotion in the service, sick and retirement funds, funds for small loans, vacation homes, medical service and a great variety of other services. The object is somewhat analogous to profit sharing, namely, to hold and develop efficiency and loyalty in a body of workers firmly attached to the business. The National Cash Register Co. (Dayton, Ohio) has been a pioneer in expanding such work, and the National Electric Light Association and the American Iron and Steel Institute represent newer developments in extensive plans for welfare work for groups of federated industries. Department stores and some large manufacturers employ highly paid superintendents of welfare departments who are charged with full responsibility and given large discretionary powers in hiring, discharging, and providing for the welfare of all employees. References: W. H. Tolman, *Social Engineering* (1909); National Civic Federation, *Conference on Welfare Work* (1904); E. L. Earp, *The Social Engineer* (1911). S. McC. L.

WEST AS A FACTOR IN AMERICAN POLITICS

Colonial West.—The West as a factor in politics may be said to have appeared with the contests between the interior rural element and the coastal settlements as the colonies progressed. It became more obvious after the occupation of the region beyond the head of tide-water which was cut off from the coast by the falls of the rivers and by the southern line of pine barrens. This region

between the Alleghanies and the coastal plain was occupied in the course of the eighteenth century by a society radically different from that of the merchants and planters of the coast. It included a large fraction of Scotch-Irish Presbyterians and Germans of many sects (see RACE ELEMENTS), and was a democracy of pioneer farmers and cattle raisers without slaves.

Social and economic contrasts and physical separation produced their natural results in political differences. In practically all of the colonies the eastern settlements retained predominance in government by declining to apportion their legislatures according to free population as the back country was settled; by monopolizing the principal colonial offices, by imposing taxes which operated to the disadvantage of the interior counties; and by tardily extending the judiciary to the back country. These political grievances, as well as the engrossing of the better lands by the leading men in the East, resulted, in practically every colony, in political contests. The "up country" expressed its opposition by the Regulator movement in the Carolinas from 1769 to 1771. In Virginia prolonged disputes arose between the tidewater and upland counties, which found their most noteworthy expression in the Virginia Convention of 1829, and finally resulted in the separate state of West Virginia (*see*) in 1863. Pennsylvania's local political history was chiefly that of the conflicts between the three old Quaker counties about Philadelphia with the back country. The so-called Presbyterian constitution of 1776 marked the political ascendancy of the interior. Even in New England there were contests between the eastern and western elements such as the attempt of the western, or river, counties of New Hampshire to join with the revolutionary state of Vermont, and finally the outbreak known as the Shays' Rebellion of 1786 (*see*).

Although the gradual assimilation of the cis-Alleghany interior to the coast reduced these antagonisms, it is possible to trace a real political section, which may be called the Old West. This subdivision tended to support the national and western policies well down into the nineteenth century. It was the stronghold of the movement for separation of church and state, and in general the support of democratic tendencies.

In the Revolution.—The passage of the West across to the Mississippi Valley in the Revolutionary era brought still more pronounced western influences to politics. Grievances of lack of specie, the legal medium in which to pay taxes and buy lands, dissatisfaction over the indifference of the East to protection from the Indians, and failure to provide satisfactory local governments, as well as opposition to the speculative engrossment of western lands by eastern capitalists, were among the grounds of complaint by western pioneer society against the conservative eastern control. The most significant expressions of western political interests at this time were the efforts of the transmontane counties of various seaboard states to acquire political autonomy (*see* KENTUCKY; FRANKLIN, SELF-CONSTITUTED STATE OF; TRANSYLVANIA); the liberal provisions for admitting new states in the Fed-

eral Constitution; and the separatist tendencies exhibited in the controversy over the free navigation of the Mississippi. To the ratification of the Constitution the agricultural communities were in general opposed, but there were notable exceptions to this in parts of Kentucky, Tennessee, and western Virginia. Federalist leaders like Gouverneur Morris voiced in the Constitutional Convention the eastern fears of western political power and made various unsuccessful propositions for limiting the admission and representation of new states with a view to retaining the control in the seaboard (*see* FEDERAL CONVENTION).

Under the Federalists.—In the federalist period the West was an important influence in foreign relations during the intrigues of France, England, and Spain to separate our western borders and to acquire the control of the Mississippi Valley and the Great Lakes. In the debates over the public land policy (*see*), the East had held back because cheap western lands in small offerings would draw off her labor population and decrease land values. Partly a separatist tendency and partly a western distrust of the Federalist policy led to the support by Kentucky of the Virginia state rights policy in the form of the Kentucky Resolutions of 1798 and 1799 (*see*). The Federalists steadily lost what western following they had possessed.

Alliance of West and South.—The triumph of the Democratic party under Jefferson marked the ascendancy of allied southern and western interests to the disadvantage of New England, resulting in the Louisiana Purchase (*see*), the embargo (*see*), and the War of 1812, all of which were made possibly by the growth of settlement and political power in the West and were accompanied by urgent protests from New England. But all were satisfactory to the agricultural and expansionist West, eager to hold both flanks of the Mississippi Valley, including the Gulf and Canada, and indifferent to the navigating and shipping interest. Western political influence in the War of 1812 (*see* WARS OF THE UNITED STATES) under leaders like Clay and Grundy, and western military victories under Harrison in the north and Jackson in the south, still further increased the influence of the trans-Alleghany section.

Alliance of West and North.—The stimulus to western settlement under the influence of improved transportation by means of the newly invented steamboat, and the growth of the cotton industry in the Gulf region, which produced an additional market for the foodstuffs raised by the old Northwest, resulted in an increasing western surplus production. The loss of the former European markets by the close of the Napoleonic wars, and by the English corn laws, led to efforts on the part of western statesmen, especially of Henry Clay, to develop a system of internal improvements

in order to break down the Alleghany barrier, and a protective tariff to develop a home market. The American system (*see*), as it was called, resulted in producing a concert of political action between the manufacturing areas of New England and the Middle States on the one hand and the Ohio Valley, on the other. The votes of the Ohio Valley were sufficient to turn the scale in favor of protective tariff bills from 1816 to 1832.

The West Dominant.—Western political power grew rapidly in this era. The admission of Ohio, Louisiana, Indiana, Mississippi, Illinois, Alabama, and Missouri between 1802 and 1821 greatly increased the relative influence of the Mississippi Valley. Up to the War of 1812 this valley had six Senators, against ten from New England, six from the Middle States, and twelve from the South Atlantic. By 1840 the Mississippi Valley sent twenty-two Senators, which was a larger number than that of any other single section, more than the Senators from all the North Atlantic states and nearly twice the number of those from the South Atlantic. In the House it had more representatives than had any other section, more than those of the entire North Atlantic group and more than New England and the South Atlantic states combined.

This trans-Alleghany democracy, still deeply marked by frontier traits, eagerly seeking its advantage by the most direct methods, less concerned over refinements of law and the Constitution than in promoting the liberty and equality of the common man, and indifferent to old traditions and vested interests had come to power in the presidency of its typical man, Andrew Jackson (*see* JACKSONIAN DEMOCRACY).

His triumph represented, however, not only the rural western democracy that found its center in Tennessee, but also the increasing influence of the working classes in the East. Men of Tennessee origin, like Benton, Grundy, Bell, White and Polk ruled the nation. Old forces of conservative political control gave way before the western tide of nationalistic democracy. The attitude of the debtor West (which confused the need of capital with the need of an inflated currency) toward the control exercised by the United States Bank (*see* BANK, UNITED STATES) resulted in the "Jackson's War on the Bank." His success revealed not only the antipathy of the West in general toward the bank as an "engine of aristocracy," but also the suspicion of the monied centers of the East which pervaded the West, and which has been a persistent characteristic of western politics (*see* SILVER COINAGE CONTROVERSY; GRANGERS). When the crisis of 1837 revealed the weakness of the state banks, the rural classes of the West, believing with their leader that they were being made "hewers of wood and drawers of water for the monied aristocracy," turned to support

hard money and government divorce from banks, under a suspicion of the entire credit system. In this, however, they met the opposition of the commercial centers of the West.

Rivalry for Commerce with the West.—Meantime the industrial and political growth of the West occasioned rivalries among the eastern sections for the support of this new sectional power. As seaboard cities like Boston, New York, Philadelphia, Baltimore and Charleston turned their attention from the European market to that of the interior, they began to struggle for respective spheres of influence in that great region, and each section tributary to these commercial cities began to press for transportation systems to the West that would bind that region to itself by ties of interest. Diplomatic issues were subordinated to sectional domestic politics in which the development of the interior played the leading role.

This was illustrated in the great debate in the Senate in 1830 over Foot's land resolution, when Hayne for the South and Benton for the West denounced New England's opposition to western interests, and Webster defended his section. Usually cited only as a landmark in the constitutional struggle between state sovereignty and nationalism, it is evident that the underlying contest in this debate was a sectional one, and that the West was the bone of contention.

A similar condition is exhibited in Calhoun's attempts to win the West to southern policies. Having failed in his attempt in 1828 and 1832 to defeat the protective tariff system by bringing southern votes to the aid of western interests, thus destroying New England's advantage, he finally proposed his nullification policy as a means of checking the growing national majority against Southern interests. But he realized that it was more important to effect substantial connections between the West as the growing part of the nation and the South.

Land Question.—This led him to attempt to extend South Carolina's economic influence into the West by securing funds for the Cincinnati and Charleston railroad by the distribution of the surplus revenue, while he also made his bid for a southern and western alliance by renewed offer of the cession of the public lands to the states within which they lay. The West itself was divided between the policy of preëmption, graduation and donation of the public lands favored by Benton and the newer states (*see* PUBLIC LANDS), and the policy of the older western states, urged by Henry Clay in alliance with northeastern forces, for the distribution of the net proceeds of the sales of the public lands among all the states.

Already incipient eastern labor forces were pressing forward the ideas of free homesteads and land limitation in the interest of higher wages and greater industrial freedom of labor

to be produced by the option of occupying free lands in the West.

It is because the land question was deeply connected with the whole social and industrial structure of the American democracy that this western question became so important a sectional and national question. Manufacturing New England and Pennsylvania were attached to their tariff interests and desired the support of the West. The South was desirous of procuring western support for reduction of the tariff and for slavery. The West was seeking cheaper lands for its settlers, more easy access to markets, and an expansion of credit in support of its undertakings. Politics involved sectional bidding to procure these various objects by alliance and concession.

Finance and Banking.—Meantime the West was undergoing various transformations which affected its political attitude. The development of industrial towns and denser settlement along the Ohio Valley and in the more fertile parts of Tennessee and the lower South increased the power of commercial forces and banks in those regions, and attracted them to the Whig policy. The old Jacksonian democracy, resting on the basis of the pioneer farmers, found its support in the sparsely settled farming regions. These political divisions were clearly seen in the divided attitude of the West on the question of the recharter of the national bank, and on the independent treasury issue.

The Whigs abandoned the avowed support of the national bank and appealed to the former Jacksonian democracy in 1840, through the nomination of William Henry Harrison, as another western military hero and man of the people, favorable to simplicity and economy in government, and to subordination of the executive. Aided by the effects of the panic of 1837, they added to their western following and elected their candidate.

Slavery.—On the question of the extension of slavery the West had been divided from the beginning. The national habit of expansion was as old as the beginnings of our history. This habit, especially congenial to the westerners, now came into collision with the divergent interests of the rival free and slave sections which were advancing across the continent. Both North and South realized that the contest was one for sectional power in the Union, and that its outcome depended upon the form of society which should be imposed upon the West. The annexation of Texas (*see* TEXAS, ANNEXATION OF) in the forties, the Mexican War, as well as the acquisition of Oregon under the Tennesseean, President Polk, were expressions of the continued movement of western expansion and western political influence rather than primarily a southern slaveholding policy.

By the middle of the nineteenth century, the forces of interstate migration and economic

conditions had brought about a horizontal division of the West into zones (*see* SECTIONALISM IN AMERICAN GOVERNMENT): (1) A zone settled chiefly by New York-New England people became increasingly opposed to slavery expansion because by its social and industrial life it became bound to the Northeast. (2) A compromise zone embracing both banks of the Ohio, settled chiefly by southern upland people, felt less antagonism to slavery. (3) Lower down the Mississippi Valley was another zone of southern uplanders, which held few slaves and was keenly alive to southern sectional interests. (4) In the Black Belt, an aristocracy of great planters, largely of lowland origin, was based on slavery.

Parties and Slavery.—This situation explains western politics in the era between 1850 and the Civil War. The southern Mississippi Valley increasingly lost its western quality and turned to common action with the cotton states. It became the "Lower South," the seat of the power of the southern Democrats, and for a time the most important political group in the nation.

On the other hand, the New York-New England zone of settlement about the Great Lakes, with its idealistic German element became increasingly restive under these conditions. The campaign of 1848 showed western political influence in the Democratic nomination of Lewis Cass for the presidency, on his support of squatter sovereignty, which was the application of a well-seasoned western doctrine to the slavery issue. Western influence was exhibited, also, in the alliance between western anti-slavery men and the New York "Barnburners" (*see*) in the nomination of Van Buren by the newly formed Free Soil party.

The compromise of 1850 fashioned by Clay, who remained the leader of the Ohio Valley Whigs, was followed by the reopening of the question in the Kansas-Nebraska Bill (*see*) by Stephen A. Douglas, of Illinois, leader of the western democracy; which found its support largely among the upland southern settlers of the Ohio Valley zone. Douglas with his characteristically western policies of expansion, political development of the new territories, and squatter sovereignty, was unable to attract the support of the lower Mississippi Valley for his presidential aspirations. After the Republican party had superseded the Free Soil party as the exponent of the alliance between the Northeast and its colonies in the West; and when the events in Kansas and the Dred Scott decision had awakened the West to the real significance of the contest, Douglas' debates with Abraham Lincoln of Illinois brought a new leader to national prominence as an exponent of western antislavery ideas.

Crisis of 1860.—Shortly before 1860 railroad trunk lines had connected the Great Lakes and the upper Mississippi with New

York and Boston, ensuring the decline of New Orleans as the commercial metropolis of the Mississippi Valley. The leaders of the cotton kingdom failed to perceive the full strength of the ties of invested capital, transportation systems, markets, and racial and social connections between the Northwest and the Northeast. Some of them claimed ultimate southern ascendancy over the Mississippi Valley and found in it the guaranty of southern success: while Seward, of New York declared to the voters of the northwest, "We resign to you the banner of human rights and liberty on this continent."

In the presidential campaign of 1860 the West had two candidates. Abraham Lincoln's strength lay in the northern zone, but his career and family history were the embodiment of the western movement from New England through Pennsylvania, along the Piedmont, into Kentucky and across the Ohio to Indiana and Illinois. Stephen A. Douglas, of Illinois, a migrated Vermonter, found his support more directly in the border zone. When the Confederacy was organized, Jefferson Davis of Mississippi was called to its presidency. His career is the complement to that of Lincoln, for he also was born in Kentucky, but settled in the Lower South where he represented the aggressive combination of its western and southern elements.

Post Bellum Parties.—In its western aspects the Civil War was a contest between the men of the lake and prairie plains of the Northwest against the men of the Gulf plains. The freeing of the Mississippi under General Grant of Illinois and Sherman of Ohio determined the outcome of the war, in the opinion of the latter general, who declared, "Whatever power holds that river can govern this continent."

In national councils the influence of the West was exercised through an administration, which, besides the President included in the Cabinet a group of western statesmen, of whom Chase was the most famous. The growing economic and political power of the Northwest during and after the War made that section especially powerful, as is illustrated by the selection as President in close succession of Grant, Hayes, Garfield, Harrison of Indiana and McKinley of Ohio. The Republican party was composed of an allied capitalistic Northeast and an agricultural Northwest, saturated with the nationalistic feeling of the war, and expanding its influence under the political leadership of the returned soldiers and officers into the new prairie states of the trans-Mississippi region. This combination kept the Republican party in power until the election of Cleveland as Democratic President in 1884.

Western Agrarian Movements.—In the meantime the West began to show dissatisfaction with this eastern alliance. There appeared a growing distrust of the banking, cur-

rency, and transportation influences upon the Republican party. This was expressed in two noteworthy political movements especially strong in the agricultural and debtor regions of the West. The Greenback (*see*) movement, while influential among the laboring classes and debtor farmers of the East, found especially congenial soil in the western regions of mortgaged farms. It was antagonistic to the bondholders, bankers and stockholders of the Northeast. The Granger (*see*) movement, characteristically western, reached its height about 1874. This resulted in independent parties in various states of the Middle West and Pacific coast, and led to state regulative commissions and state laws fixing maximum railroad rates, as well as to propositions in Congress for federal regulation of interstate commerce. The courts supported the right of government to regulate common carriers and these decisions later became the legal basis for the Interstate Commerce Commission. The farmers' movement also strengthened the anti-tariff sentiment in the West, and tended to support the opposition to restriction of the volume of the currency.

The decline of agricultural prices (largely the result of the overproduction which followed the rush to the new wheat fields of the prairie states), and the alleged appreciation of money under the gold standard, were contemporaneous with the opening up of great silver deposits in the Rocky Mountain region. In these facts lies the explanation of another important era of western political influence.

Silver Currency.—The visible sufferings of the railroads in the panic of 1873 put a stop to the Granger attacks upon western transportation system; their coöperative associations also failed. But a new farmers' movement, chiefly western and southwestern, gradually took shape. This made an appeal for legislation to redress agricultural depression, and a protest against payment of mortgages in what was believed to be an appreciating currency which worked to the advantage of the eastern centers of capital. With four exceptions all Senators west of the Alleghanies voted for the Bland-Allison silver purchase compromise in 1878; and only one of the New England, New York, and New Jersey Senators was in active opposition to it. The House of Representatives passed the Bland bill (*see*) for free coinage of silver by a vote of 163 to 34. Much the same alignment was exhibited in the vote forbidding the further retirement of greenbacks in 1878. For over a decade thereafter sectional voting was more significant than party voting, in view of the internal party divisions on currency and tariff. Between 1880 and 1890 west of the Alleghanies more than eight million souls were added, while the old eastern states increased by but half that number. The political power of the West was formally recruited by the addition of

seven new agricultural and mining states, Colorado (1876), North Dakota, South Dakota, Washington and Montana (1889), and Idaho and Wyoming (1890). The free silver forces were thus greatly increased in the Senate, at the same time that there was overproduction in agriculture and silver and low prices for all commodities prevailed.

Signs of the new political influence of the West were soon evident. The Interstate Commerce Act of 1887 was due in large part to western votes, as were the Anti-Trust Act of 1890, and the Sherman Silver Purchase Act of the same year; indeed a free coinage measure passed the Senate by the votes of western members.

Populism.—The silver convention at St. Louis in the fall of 1889 and the convention at Omaha of the Populist party in 1892 gave evidence of the same western temper. The Omaha platform illustrated the growing tendency of the former individualistic West to appeal to legislative remedies for social and economic ills, as the free land era came to its close. It denounced the "conspiracy" of eastern capitalists, the tendency to "breed tramps and millionaires," and demanded the free and unlimited coinage of silver; the expansion of the currency, to be issued directly to the people, postal savings banks; government ownership of railroads, telegraphs and telephones; a graduated income tax; and commended the initiative and referendum. The effective power of the Populists lay, however, rather in their effect upon public opinion and in spreading alarm and dissension within the older parties than in their actual votes.

Split in the Democratic Party.—The panic of 1893 increased the general unrest and fostered the tendency of the growing eastern labor movement to unite with these other forces of discontent. The Democratic administration failed to pass remedial tariff legislation in 1894 (see WILSON-GORMAN TARIFF), owing to the bipartisan combination chiefly of eastern protected interests in the Senate. The "gold purchases" made by Cleveland to protect the treasury still further alienated the western wing of his party, and the income tax of 1894 was declared unconstitutional by the Supreme Court (see *Pollock vs. Farmers' Loan and Trust Co.*, 158 U. S. 618.)

The campaign of 1896 marked a realignment of parties: the Republicans standing firmly for the gold standard and a protective tariff, were met by the Democratic party revolutionized by the triumph of western and southern forces under Bryan of Nebraska. His campaign of 1896 was waged in behalf of free silver and he rallied to his cause the silver producing states of the far West as well as the Populists of the prairie states. The older states of the Middle West, however, refused to accept free silver, and thus this western revolution failed.

Prosperity.—A tide of prosperity set in about 1898 which allayed western discontent and increased the political influence of the East. Thanks to the newly opened mines of Alaska, new processes in ore extraction, and the new mines of Africa, the world production of gold vastly increased and calmed the complaint that there was an inadequate standard for the currency. Agriculture becoming better organized and prosperous, many farms were freed from mortgage. The business revolution which resulted from combinations of capital, "high financing," and the exploitation of new sources of iron and coal by improved methods all tended to turn attention from political ills to economic gains. At the same time the Spanish American War captured the popular imagination. This era of prosperity lasted nearly a decade before new western political movements made manifest the reaction.

Progressivism.—In various western states and cities reform movements, characterized by an attempt to check the influence of public service corporations and professional politicians of the "regular" organizations, were in action at the beginning of the twentieth century. Governors like La Follette, of Wisconsin, Folk, of Missouri, and Cummins of Iowa won fights for better railway regulations, destruction of corrupt politics and more equitable taxation. The movement for direct primaries, followed by the "Oregon system" of initiative, referendum and recall, and the demand for popular government in general, were growing. In the period of Roosevelt's presidency (1901-1909) these demands took on a national aspect and were accompanied by efforts, strongest in the West, to destroy the power of the trusts; to give more effective control to the Interstate Commerce Commission (see); to lower the tariff; and to break down the conservative control in the Senate through popular election of Senator; and in the House by overturning the power of the speaker. A group of westerners, especially La Follette and Cummins, came into the Senate with startling disregard for the traditions of that body, according to which the seniors in office, chiefly from the East, controlled the machinery and dictated the policy.

President Roosevelt who had lived for some time in the cattle country of the West, and had a sympathetic understanding of its attitude, lent a qualified aid to those tendencies and in his conservation policy raised a new western issue to primary importance. Alarmed by the diminution or monopolization of the supplies of public lands, minerals, forests, water power, and irrigation opportunities by eastern capital, the Middle West emphasized its collective attitude. The general radical policies once held by Grangers, Populists and Bryan Democrats now spread in more or less modified form among the regions where these forces had been strong, and also appealed to

eastern labor for support. The movement for woman suffrage gained an increasing following in the same regions.

Out of these conditions came the Insurgent Republican (*see*), and then the Progressive (*see*), movements, the strongholds of which were in the Middle West and the Pacific slope. The mountain states and the Northeast, affiliated by invested capital, were the reliance of the conservative elements. The dissenting Republicans holding the balance of power in President Taft's administration, combined with the radical Democrats to destroy the "rule" of Speaker Cannon (*see* INSURGENTS IN CONGRESS; SPEAKER OF THE HOUSE), the ascendancy of the East in the Senate, and to shape legislation in respect to large business interests in accord with western ideas. The attempt to reduce protective duties was checked in the Payne-Aldrich (*see*) tariff of 1909; but the elections of 1910 marked a western landslide against the regular Republicans.

Third Party Movement of 1912.—The candidacy of La Follette, of Wisconsin, the champion of these forces in the Senate, for the Republican nomination for President gained a notable western following until in the midst of the campaign he fell ill for a time and ex-President Roosevelt, who had already been proclaiming a "new nationalism" (*see*) that should control trusts, improve the social condition of the masses, and restrain the judiciary from blocking popular movements for social reform, announced his candidacy and drew the following of masses of the Progressive Republicans. In the disruptive contest of the Republican convention at Chicago, western leaders were most active in combatting the forces of the Republican organization, under its old time eastern leaders, who supported the administration and in the later Chicago Convention of the Progressive party the West was particularly influential, although as in the days of Jackson the popular movement acquired a national aspect by the following which it secured among eastern radicals and politicians.

In the Democratic convention, likewise, Mr. Bryan championed western interests in a defiant attack upon the New York wing of the party and by his strategy rendered possible the nomination of Wilson on a platform acceptable to western Democrats.

Summary.—Thus in successive stages the West has been highly influential upon American diplomacy, economic policy and political institutions. In diplomacy it has tended steadily to expansion; in economic matters it has exhibited successive uprisings in favor of debtor as against creditor classes, and an inflated as against a contracted currency, and a desire to control the large financial interests; in political activity its aim has been to promote democracy and provide the machinery for popular participation in government. The most

noteworthy change in western political sentiment has been the tendency to pass from a traditional devotion to individualism and distrust of governmental agency to a reliance upon government to promote its social aims and preserve its social ideals. This has taken place almost at equal pace with the realization that the era of free lands was terminating. As in earlier periods also, the West tends to divide within itself on urban and agricultural lines, the cities becoming increasingly reflective of eastern conditions.

See BOUNDARIES OF THE UNITED STATES, INTERIOR; CONSERVATION; FAR WEST; FARMERS' ALLIANCE; FRONTIER IN AMERICAN DEVELOPMENT; GREENBACK PARTY; GRANGERS; INDIAN POLICY OF UNITED STATES; INITIATIVE; JEFFERSONIAN DEMOCRACY; MIDDLE WEST; PACIFIC SLOPE; PARTY ORGANIZATION IN CALIFORNIA; PHYSICS AND POLITICS; POPULIST PARTY; PRIMARY; PROGRESSIVES; PUBLIC LANDS AND PUBLIC LAND POLICY; REFERENDUM; SECTIONALISM IN AMERICAN GOVERNMENT.

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FREDERICK JACKSON TURNER.

WEST FLORIDA. In 1763, England for purposes of administration divided her newly acquired Florida possessions by the Apalachicola River. That section west of the river was called West Florida. This province was bounded on the west by Lake Pontchartrain, Lake Maurepas and the Mississippi, and north by the thirty-first parallel of latitude. In February, 1764, the parallel of 32°, 28', from the mouth of the Yazoo River east to the Chattahoochee was fixed as the northern boundary. Under England's rule liberal offers were made to colonists, roads were built, a large export trade was founded and prosperity abounded. The governor of West Florida was authorized to summon general assemblies as in the northern colonies. Laws were to be enacted by the governor with the approval of his council and the popular representatives. Until satisfied that the province was capable of self-government, the governor exercised the power of law making in conjunction with his council. In 1773 Governor Chester, concluding to call an assembly, issued notices setting forth the qualifications of voters and representatives and the method of holding the election as well as the date for convening the assembly at Pensacola. The term of office for legislators was fixed at three years but the majority voted in favor of a one year term. Since they adhered to this objection and the governor refused to compromise no general assembly ever met in West Florida. The province re-

mained loyal to the British Crown during the American Revolution, but in 1780 was attacked by the Spanish who within two years expelled the British.

When England, by the Treaty of 1783, acknowledged the independence of the United States she agreed to the retention of Florida by Spain, but in a secret clause provided that the southern boundary of the new nation should be the thirty-first parallel. Spain refused to evacuate that portion of West Florida between 31° and 32°, 28' on the ground that since she had driven the British from that province before the conclusion of the treaty England had no right to cede this district. This resulted in a bitter dispute between Spain and the United States which threatened hostilities. In 1795 Thomas Pinckney negotiated a treaty with Spain by which, in consideration of the settlement of all spoliation claims, the thirty-first parallel was acknowledged as the northern boundary of West Florida.

In 1803 the United States insisted that that portion of West Florida west of the Perdido River was included in the newly purchased Louisiana territory. Spain declared, and France upheld her, that since she had not received the district from France but had conquered it from England, it was not a part of Louisiana and could not have been purchased by the United States. In 1810, while Spain was prostrated by European wars, that part of West Florida located between the Perdido and Mississippi Rivers revolted and declared itself an independent nation under the name of the Republic of West Florida. A president was elected, a constitution adopted and a miniature standing army raised. This so-called republic was seized by the United States after a short and decisive campaign against the revolutionists. The region west of the Pearl River was organized as a part of the territory of Orleans (*see*). By acts of Congress of April 8 and April 14, 1812, the territory embraced in this short-lived republic was added to the new state of Louisiana and the territory between the Pearl and the Perdido was annexed to the Mississippi Territory, although at that time the city of Mobile was held by Spanish troops.

During the War of 1812 the English used the Floridas as a base of operations against the United States. General Wilkinson was ordered to Mobile and April 13, 1813, the Spanish commandant surrendered. In 1814 General Jackson invaded the balance of the original Spanish province of West Florida, drove out the British and captured the town of Pensacola. After the cessation of hostilities the territory lying east of the Perdido was evacuated pending diplomatic negotiations with Spain. In the Seminole War Jackson again invaded this district in pursuit of the hostile Indians, occupied Pensacola where they were sheltered, and received the surrender of this

portion of the original Spanish province of West Florida. Jackson appointed a civil and military governor, named a collector of the port of Pensacola and extended the civil laws of the United States over the country "until Spain could furnish a sufficient military force to properly administer its affairs." In September, 1819, this portion of West Florida was again delivered to the Spanish.

Meanwhile negotiations for the purchase of both Floridas were successfully terminated and July 17, 1821, Spain formally ceded to the United States all her claims to West Florida. In 1822 an act of Congress created civil authority and established the territory of Florida embracing within its limits that portion of the original province east of the Perdido.

See EAST FLORIDA; FLORIDA; LOUISIANA ANNEXATION; ORLEANS, TERRITORY OF.

References: G. R. Fairbanks, *Hist. of Florida* (1871); H. B. Fuller, *Purchase of Florida* (1906); E. L. Green, *Hist. of Florida* (1898); H. Adams, *Hist. of U. S.* (1890).

HUBERT BRUCE FULLER.

WEST INDIA TRADE, 1783-1833. In declaring their independence the states of the American Union sacrificed the unrestricted trade with the British West Indies. The treaty of 1782 contained no stipulations on commerce; and in 1783, by Orders in Council, trade in and out of the British West Indies was declared restricted to the British flag. Therefore all Spanish and British ports on this continent were closed to American trade. A slight concession obtained by Jay in the treaty of 1794 (see JAY TREATY) was stricken out by the Senate.

After the War of 1812 efforts to secure concessions were renewed, but without success. Congress then adopted a policy of "countervailing legislation," and by the acts of April 18, 1818, and May 15, 1820, closed American ports to British ships coming from the West Indies. This caused Parliament, in 1822, to open West Indian ports to foreign vessels under certain restrictions, but with a differential duty in favor of the products of British North America. The United States then demanded to be put on the same footing in the West India trade as the British colonies of North America. This demand was refused and both countries continued the policy of retaliation until all direct trade of a lawful character came to an end. The Americans, however, resorted again to smuggling.

Jackson's followers made political capital out of the diplomatic deadlock, and when he became President he receded from the extreme position taken by the Adams administration. The British Government expressed its willingness to come to terms, and on May 29, 1830, Congress authorized the President to declare the retaliatory acts repealed, and to admit British vessels from the colonies on the same

terms as American vessels from the same quarter. The British Government then extended reciprocal privileges to American vessels in her West Indian ports.

See COLONIES, INTERNATIONAL RELATIONS OF; CUBA AND CUBAN RELATIONS; GREAT BRITAIN; PIRACY; SPAIN; WEST INDIES, DIPLOMATIC RELATIONS WITH.

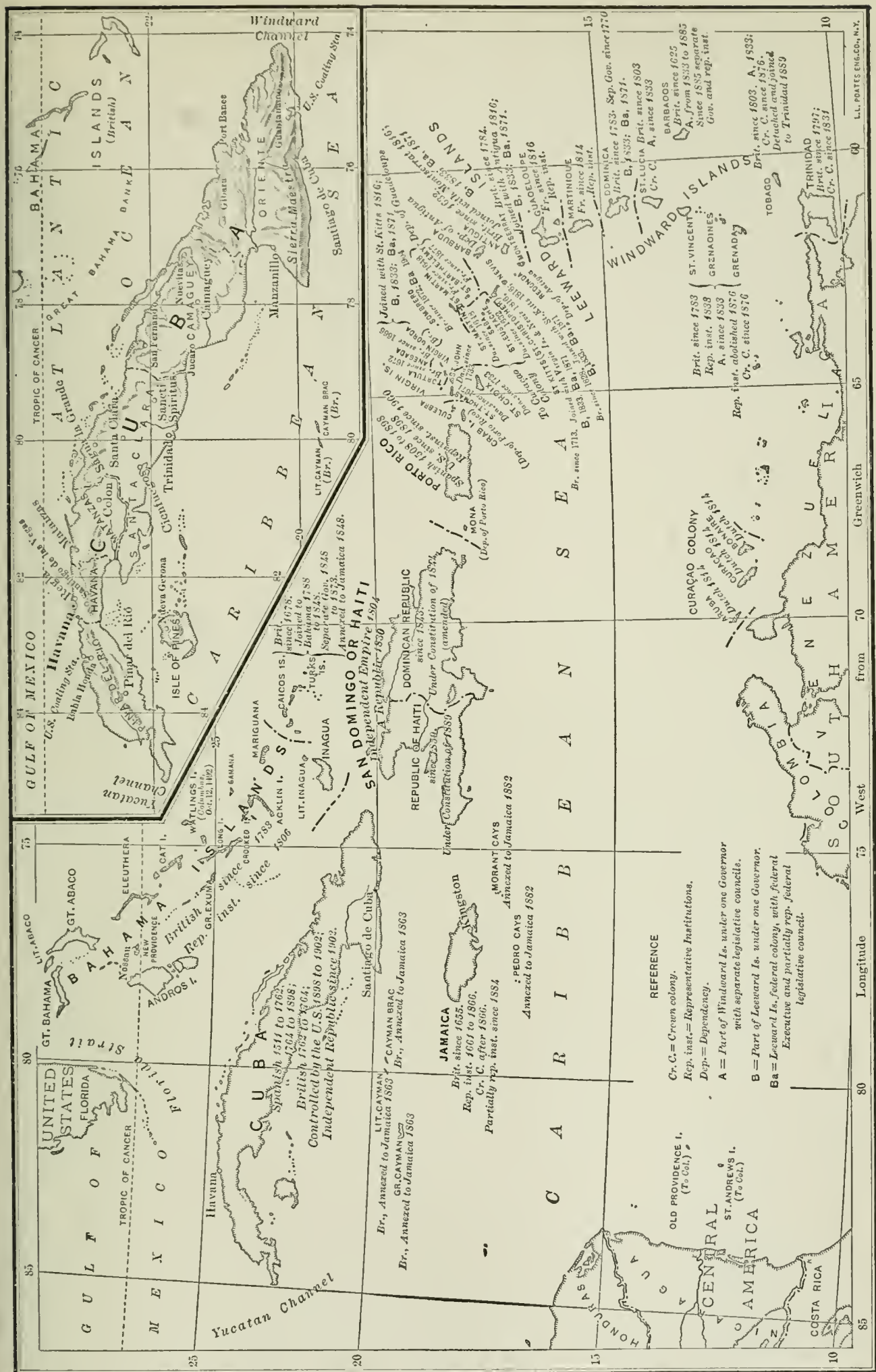
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JOHN H. LATANÉ.

WEST INDIES, DIPLOMATIC RELATIONS WITH. At the close of the American Revolution Spain was still dominant in the West Indies; she held Cuba, Porto Rico, San Domingo, and Trinidad, as well as all the continental shores of the Gulf of Mexico and the Caribbean Sea. Her power was, however, on the point of decline. She soon lost through revolution her continental colonies, out of which the United States gained Louisiana in 1803, the Floridas in 1819, and Texas in 1845. Thus American relations with the West Indies became closer. During the same period, however, the influence of Great Britain steadily increased and she secured practical naval control of the West Indies. The United States naturally opposed the transfer of territory in the West Indies from one European power to another, and its policy was practically to guarantee to Spain her existing possessions. After the acquisition of Texas the United States was eager to purchase Cuba, but Spain refused to sell.

About the middle of the nineteenth century the United States and England began the long controversy over the control of the isthmian canal. After the Civil War Secretary Seward sought to strengthen the position of the United States in the West Indies by the acquisition of San Domingo and the Danish West Indies. October 24, 1867, a treaty was concluded with Denmark providing for the cession of St. Thomas and St. John for \$7,500,000 on condition that the inhabitants should by popular vote give their consent. This was obtained and in 1868 the treaty was ratified by the Danish Government, but the consent of the United States Senate could not be obtained. In 1892 and 1896 a renewal of the offer to sell was made by the Danish Government and in 1902 a new treaty was signed, but this time the upper house of the Danish Rigsdag withheld its consent.

West Indian diplomacy has always been particularly trying to the United States because a case arising in one of the islands affecting the interests of American citizens would be referred to Washington, then transferred to one of the European capitals, then referred back to the island for information or explanation, necessitating exasperating delays.



THE WEST INDIES

After a century of great forbearance in regard to Cuba came the Spanish War of 1898, resulting in the withdrawal of Spain. Porto Rico was annexed by the United States and Cuba became a protectorate. San Domingo (*see*) has since come under the financial supervision of the United States, and the same fate in all probability awaits Hayti. By the Hay-Pauncefote treaty of 1901 England gave up all claim to an equal voice with the United States in the control of the isthmian canal. This treaty was followed by a reduction of British armaments in the West Indies. American naval supremacy in the Carribean Sea is now firmly established. In their trade relations the West Indies are growing more and more dependent on the American market.

See COMMERCIAL POLICY AND RELATIONS OF THE UNITED STATES; CUBA AND CUBAN RELATIONS; WEST INDIA TRADE; and GREAT BRITAIN, HAYTI, SAN DOMINGO, DIPLOMATIC RELATIONS WITH.

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WEST JERSEY. See NEW JERSEY.

WEST POINT. See MILITARY ACADEMY AT WEST POINT.

WEST VIRGINIA. Settlement and Early Conditions.—The trans-Allegheny territory included in West Virginia, the home of few civilized men before 1750, after 1763 furnished new inducements to settlement which were followed at the beginning and the close of the Revolution by a rapid expansion movement resulting by 1790 in a total trans-Allegheny population of 100,000—widely separated into many isolated local groups, intensely individualistic in spirit and with frontier conditions which, retarding the development of its vast resources, largely continued to exist until the formation of the new state.

Sectionalism in Virginia.—Considering the differences in population, physiography and interests, the formation of the new state by separation from the mother state was the logical result of the half-century of sectional controversy between East and West in regard to inequalities under the constitution of 1776 which were only partially remedied by the constitutional conventions of 1829-30 and 1850-51. The secession of Virginia only furnished the occasion and the opportunity to accomplish separation by legal fiction and revolutionary process.

Separation from Virginia.—The first irregular Wheeling convention of May 13, 1861, initiated steps toward separation. A second which met June 11 formed the "reorganized" government of Virginia. After a popular vote

on October 24 in favor of the new state (18,489 against 781), a third convention (41 counties represented) met at Wheeling on November 26 and on February 18, 1862, completed a constitution which was ratified early in April by a vote of 18,162 to 514. The new state, erected by consent of the "reorganized" government and the consent of Congress, revised its constitution (February, 1863) to meet the condition of Congress requiring gradual abolition of slavery, and was admitted to the Union on June 20, 1863. In 1866 it rejected the overtures of Virginia for reunion.

Constitution of 1863.—The first constitution provided for white male suffrage, a ballot system to replace the aristocratic system of *viva voce* voting, annual legislatures, popular election of governor and judiciary, change of election from May to October, a township system of local government, and a system of free schools. Amendments before they could be submitted to the people required the approval of two legislatures. The governor still had no veto, and the office of lieutenant governor was abolished.

Constitution of 1872.—The second constitution, which is still in force (1913), was adopted in 1872 and exhibits marks of the post-bellum period of partisanship which preceded it. Among its most important changes were increase of gubernatorial term from two to four years, authorization of the executive veto, biennial legislatures, increase in the size of each house and in the term of office of members, abolition of the township system, and reinstatement of the old Virginia county system of government by justices of the peace, and the prohibition of registration laws and of special legislation in a long list of specified cases. It contained some antiquated or imperfect provisions which have retarded or prevented governmental adjustments necessary to meet new conditions. Among these is the clause—peculiar to this state—which provides that "the voter shall be left free to vote by either open, sealed or secret ballot."

The constitution provides for amendment either by popular vote (at the general election) on proposed changes submitted by a two-thirds majority of each house for ratification, or by a constitutional convention which may be called after proposal by a majority vote of each house ratified by popular majority. By the first method, amendments were secured in 1881, 1883, 1902 and 1912. Every executive since 1900 has suggested the need of a constitutional convention, the chief objection to which is the expense.

State Government.—The executive department consists of the governor and six other officials elected at the presidential election for a term of four years beginning March 4 following. The governor is ineligible for reelection for the four years next succeeding the term for which he was elected. In case of his

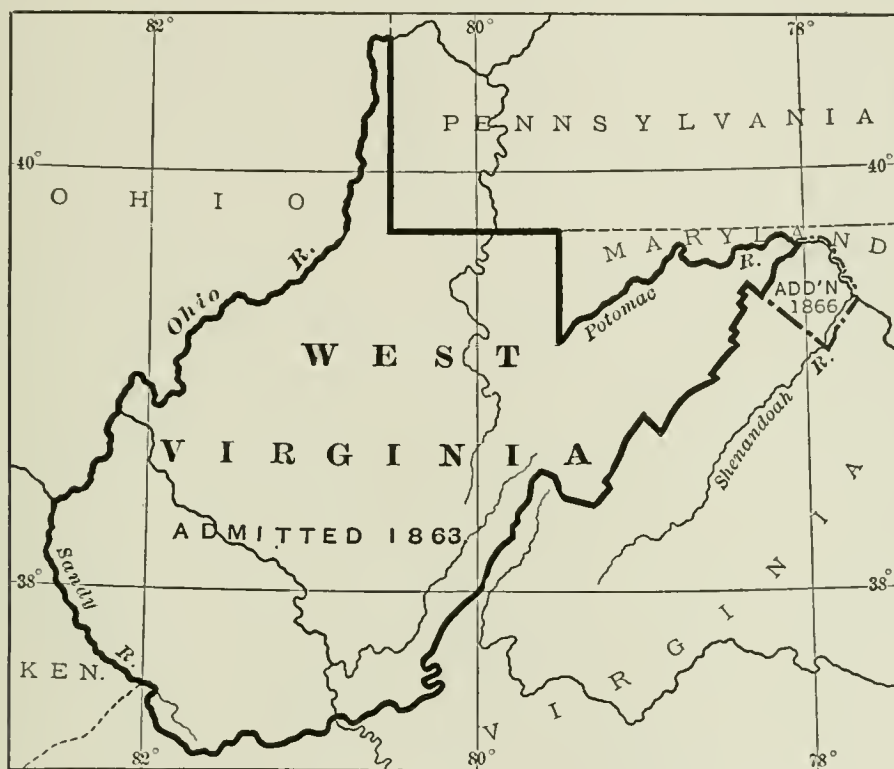
WEST VIRGINIA

disability in the fourth year of his term, the president of the senate acts as governor, and after him the speaker of the house. Although he may veto the separate items of an appropriation bill, any bill may be passed over his veto by a majority of the total membership of each house. He has no pocket veto.

Among the state officials and administrative boards appointed by the governor that of the first importance is the rotary board of control (created in 1909) consisting of three persons (\$5000 each) serving for six years, to supervise and approve the expenditures of appropriations to state institutions and to various boards and bureaus. Its creation illustrates the recent tendency toward centralization of administration. The office of tax commissioner was created in 1904 and a public service commission in 1913.

the county court, and the clerk of the county court, who also acts as recorder, are elected for six years. The county court is no longer composed of trial justices (since 1881) but is largely an administrative board for county business affairs, chiefly police and fiscal. Each county is divided into magisterial districts varying from 3 to 10 corresponding to the township which was adopted in 1863 and abolished in 1872. Each district elects magistrates (justices of the peace) and constables, and a board of education.

Present Political Conditions.—A majority of the voters in the new state until 1870 were Republicans. In that year control passed to the Democrats ("Conservatives") who retained it for a quarter century, although their majority steadily declined after 1880. The Republicans, who by 1882 almost ceased oppo-



BOUNDARIES OF THE STATE OF WEST VIRGINIA, SHOWING TERRITORIAL CHANGES

The legislature (30 senators and 86 members of the house of delegates) meets in January of odd years. Its sessions of 45 days may be extended by a vote of two-thirds of the members elected to each house. After its adjournment an appropriation bill cannot be vetoed.

The judiciary is composed of a supreme court of appeals, 22 circuit courts, several courts of limited jurisdiction (generally criminal), the county court of three commissioners (whose judicial powers are confined to such business as probate), justices of the peace; and city courts. There are no chancery courts, but courts of record have equity jurisdiction.

County Government.—The county is the unit of local government. The sheriff, elected for four years, also acts as tax collector and treasurer. Three commissioners, constituting

sition, won the legislature a decade later, and obtained complete control by the election of the entire ticket in 1896. In the face of their increasing strength they endangered their prospect of success at the polls in 1908 by party dissensions. Although Taft (1908) received a plurality of 26,450, and the Republican governor and state officers were elected by a smaller majority, the Democrats won the legislature. In 1912, Woodrow Wilson, the Democratic candidate, received all the electoral votes; but the Republicans elected the governor and a majority of the legislature. An equal division in the senate resulted in a long contest for election of a presiding officer.

Since 1900 the largest political questions relate to tax reforms, the extension of state regulation or supervision (especially to prob-

lems of health and safety and industrial interests), greater efficiency of administrative organization, methods of party organization and control, the growing demands for a primary election law, a prohibition amendment (ratified in 1912), and the Virginia debt case.

Population.—In 1900 and 1910 West Virginia ranked in population as the twenty-eighth state. The population was 376,688 in 1860, 442,014 in 1870, 762,794 in 1890, 1,221,119 in 1910.

See CONSTITUTIONS, STATES, CHARACTERISTICS OF; STATE GOVERNMENTS, CHARACTERISTICS OF; VIRGINIA.

References: C. H. Ambler, *Sectionalism in Virginia* (1910); Appleton's *Annual Cyclopedic* (1861-1902); M. F. Callahan, *Evolution of the Constitution of West Virginia* (1909); R. E. Fast and H. Maxwell, *Hist. and Gov. of West Virginia* (1908); Auditor of West Virginia, *Report, 1909-10* (biennial); State Board of Control, *Report, 1910* (biennial). F. N. Thorpe, *Federal and State Constitutions* (1909), VII, 4011-4064; J. M. Callahan, *Semi-Centennial History of West Virginia* (1913).

JAMES MORTON CALLAHAN.

WESTERN RESERVE. The state of Connecticut, by an act of May 11, 1786, ceded to Congress its claim to the western lands (*see* **CESSIONS BY STATES**). It reserved, however, a strip running along the southern shore of Lake Erie, bounded by the international boundary, on the east by Pennsylvania, on the south by parallel 41°, and on the west by a meridian one hundred twenty miles west of Pennsylvania's western boundary. This cession was accepted by Congress. In the latter part of the century Connecticut disposed of the land. An act of 1792 granted 500,000 acres to the inhabitants of the Connecticut towns whose property had been destroyed by the British troops in the Revolutionary war, or to their legal representatives if the original sufferers were no longer living, and to their heirs and assigns. These are known as the "Fire Lands." In 1795 the legislature sold the lands undisposed of to thirty-five purchasers. This grant purported to convey all rights, titles, and interest, "juridical and territorial." The grantees might well have thought themselves proprietors possessed of full rights of self-government; they actually appear to have thought that they could become a new state. Naturally, difficulties arose with the administration of

the Northwest Territory. Before long, however, the settlers were willing to surrender their claim to jurisdiction. In 1800 an act was passed by Congress providing that, to quiet title and thus protect the actual owners, the President of the United States should release and convey to Connecticut all claim to the land, provided that the state give up claims to land west of the boundary between Connecticut and New York except the Reserve, and should give the United States jurisdictional rights in the Reserve. Connecticut acted accordingly and the Western Reserve was merged in the Northwest Territory. **See** **CESSIONS BY STATES: NORTHWEST TERRITORY: OHIO.** **References:** B. A. Hinsdale, *Old Northwest*, (1888), ch. xix; T. Donaldson, *Public Domain* (1884), 72-75; J. Winsor, *Westward Movement* (1897), 265-266, 500-504; State Papers, *Public Lands*, I, 94. A. C. McL.

WET. A term applied both to those opposed to the prohibition of the manufacture and sale of intoxicating liquor and to the territory in which it is manufactured or sold. **See** **PROHIBITION.** O. C. H.

WHARTON, FRANCIS. Francis Wharton (1820-1889) was born at Philadelphia, March 1, 1820. In 1843 he was admitted to the bar, and practiced until 1856, when he became professor in the Episcopal Theological School. In 1863 he resigned his professorship to become rector of St. Paul's Episcopal Church at Brookline, Mass., where he remained until 1866. In the latter year he became a professor in the Episcopal Theological School at Cambridge, and at the same time professor of international law in the Boston law school. His fame as a jurist and publicist led, in 1885, to his appointment as solicitor of the department of state, which office he retained until his death in 1889. His publications, all of them standard authorities in their several fields, include *State Trials of the United States during the Administrations of Washington and Adams* (1849); *Conflict of Laws* (1872); *Digest of the International Law of the United States* (1886, rev. ed. by J. B. Moore, 1906); and *Revolutionary Diplomatic Correspondence* (1889). He died at Washington, February 21, 1889. **See** **LAW, CONSTITUTIONAL, AMERICAN.** **References:** J. B. Moore, "Sketch of the Life of Francis Wharton" in *Rev. Dipl. Corresp.* (1889), I, chs. xi-xxvii. W. MacD.

WHIG PARTY

Origin.—The Whigs, a party composed of elements in opposition to the "Democrats," as the followers of Andrew Jackson became fully known by 1832, with their own consent, came into being about 1833, following the

final downfall of the "National Republicans" (*see*) in the presidential election of 1832. Whigs and Democrats contended thenceforward in national politics until, in the campaign of 1852, the Whigs, as a national party, went

down to disastrous defeat, and new and unexpected issues led, two years later, to a new political alignment.

Daniel Webster, whose influence in New England was potent, had urged Henry Clay in 1830 to form national parties anew on the issues of tariff and internal improvements. Clay and Jackson had been personally antagonistic, under President Monroe, long before their political differences had developed at all. There was little opportunity for a newly organized opposition until, in 1833, Jackson's daring removal of the deposits (*see*) from the United States Bank revealed the depth of his hostility to the institution and gave to politics a new and exciting issue.

The Name.—The name "Whig" thus came into our politics, as symbolizing an opposition to the high prerogative or toryism of President Jackson—"King Andrew," as his enemies now called him—in absorbing the functions of state in his own person. His free exercise of the veto power, too, was resented. A new party name, coined in the 1834 elections of Connecticut and New York City, was quickly and spontaneously adopted throughout the Union. Old families of New England, never partial to Jeffersonian traditions, hailed the style of Whig. Even state rights men at the South were attracted; for Hayne's famous speech had praised the Revolutionary Whigs, and so had Jefferson in one of the last letters he ever wrote. Into this new fold were gathered the National Republicans (*see*) whom Clay had led to a last defeat; Anti-Masons (*see* ANTI-MASONIC PARTY), whose party was already in the throes of death; and southern men who, for one cause or another broke away from Jackson's leadership, as his political plans developed. Into this chaos of opposition Calhoun and his nullifiers might have entered as a final ingredient: but Calhoun maintained a personal independence, for the most part, after his breach with Jackson; and South Carolina was slow to affiliate with any national party. Yet in most of the border slave states the Whigs gathered strength, and elsewhere in the South had a large and respectable following; thus vindicating claims to be considered a party of the whole Union, knowing no sectional differences. Yet notwithstanding the justice of this claim, the stronghold of Whig power was at the North and among the free states.

Campaigns of 1836 and 1840.—Jackson's immense popularity towards the close of his administration convinced the Whigs that opposition would be useless to the election of Van Buren, the warrior's designated successor. Hence no Whig national convention was called in 1836, as an offset to that of the Democrats. But various states put forward Whig candidates of their own. William H. Harrison of Ohio, Hugh L. White of Tennessee, Daniel Webster of Massachusetts were thus presented:

Willie P. Mangum of North Carolina receiving the vote of South Carolina. Van Buren's total vote in the electoral college was 170 and he became President; but no one having a majority of the votes cast for Vice-President, the Senate chose Richard M. Johnson of Kentucky, who had received the largest number of electoral votes.

Van Buren's administration ushered in commercial disaster, following a feverish speculation which the financial errors of his predecessor had promoted. Ruin was wide spread. No regulation of exchanges or the currency existed. Jackson's pet state banks went into insolvency with the rest; and for these and other abuses of the patronage, now fully revealed, the party in power bore the blame. With the nation once more in debt and the people suffering distress and depression, the Whigs held a national convention at Harrisburg, December 4-7, 1839, to prepare for the presidential contest of 1840. Henry Clay was the favorite; but the incessant warfare he had waged in the Senate made political managers uneasy, and, under a peculiar rule which sifted secretly the preferences of the delegates, the chief nomination went to Harrison. John Tyler, who was at this convention and wept at Clay's defeat for presidential nominee, was readily given the second place on the ticket, locality, the wish to attach southern Democrats already alienated from Jacksonism, and his warm advocacy of Clay, all operating in his favor. The convention dissolved with harmonious expression but no platform. The Democratic convention named Van Buren and Johnson for reelection.

The presidential campaign of 1840 was a remarkable one for picturesqueness and enthusiasm (*see* LOG CABIN CAMPAIGN). From March to November returns from the several states gave presage of a Whig victory; yet the sum total of success astonished the most sanguine of this new opposition party. The people, with contagious emphasis, pronounced for an entire change in rulers and a ruling policy. Harrison and Tyler swept the whole Union, except for seven states, mostly southern. They had 234 electoral votes in all, against 60 for Van Buren, notwithstanding the loss of Virginia, which went Democratic. The Whig popular majorities in the states were immense beyond precedent, being increased by the composite and diverse character of the forces opposed to them.

Whig Administration, 1841-45.—But with this great national victory the misfortunes of the national Whig party commenced. General Harrison, the kindly military hero and civilian, thus promoted to the presidency was sixty-eight years of age when he came to Washington, to assume the honors and responsibilities of supreme station. His inaugural address manifested an honest purpose to do right and to correct existing evils. He chose

a Cabinet in which the various Whig elements, North and South, were fairly represented; with Daniel Webster for Secretary of State and Thomas Ewing Secretary of the Treasury. Francis E. Granger of the Anti-Masons was made Postmaster General. Clay had declined Cabinet honors for himself, but named Ewing and John J. Crittenden as his friends. During the ensuing strife for the lesser patronage the President, March 17, called an extra session of Congress for May 31, reciting revenue and finance as the special subjects for legislation. On the fourth of April Harrison died at the White House, after a brief illness, having served a month and Tyler immediately took office.

It was the first time in our history that a presidential incumbent had failed to live out his term of office; and a bereaved people were yet to learn what the successorship of a Vice-President actually meant. A statesman but little known or considered in the free states hitherto, John Tyler, with a good senatorial experience and agreeable manners, was well equipped for the usual dignified but irresponsible functions of Vice-President. He was a man of the best Virginia pedigree, courteous in manner, happy in compliment, cheerful and even hilarious among intimates, and susceptible at all times to the influences prevalent among gentlemen of polite breeding. In feeling he was a southerner, wedded to the social and economic systems of his own section, a state rights rather than a national man in association and sympathy, an independent Democrat who had broken with Jackson on certain points of policy, and yet with respect to the common people a democrat in no sense of the word.

Tyler began his presidency with a harmonizing disposition and, like Harrison, he was pledged to let a Whig Congress work out its own legislation without interposing the veto power, as Jackson had done. But, as his sons and biographers have later shown us, a clique of intimates of his own state persuaded him presently to lead the Whig party with a new programme, become his own successor, ousting rivals, and restore Virginia to the lead in affairs, as in earlier days. His clash with Clay came just as Congress met, and Clay left the White House divining his purpose. Webster was to be kept as a possible ally of Tyler's ambition, or else disposed of diplomatically. Congress assembled in extra session with a Whig majority in both branches; and Clay, as Whig leader in that body, produced a programme whose chief purport, after abolishing Van Buren's subtreasury, was to reestablish a United States Bank of some kind. Such had been the general expectation; but after the subtreasury repeal President Tyler's state rights scruples became manifest and Clay's plan was modified to meet them. The bill first passed located the new bank in the District of

Columbia, but compromised as to requiring state assent for the operation of branches. Tyler vetoed the bill and it was lost. A second bill was prepared, upon full consultation and what seemed a clear approval by President and the whole Cabinet. This bill Tyler also vetoed, killing the measure, and his rupture with the Whig party was manifest.

Harrison's Cabinet, with the exception of Webster, resigned, and their testimony to Tyler's bad faith was convincing. But the hope of forcing this President to resign by leaving him without a Cabinet failed. With Webster's aid a full list to fill vacancies was sent to the Senate, which consistency compelled that body to confirm just before the adjournment on September 13. Webster's own rivalry with Clay had influenced him in remaining; but important negotiations with Great Britain furnished the controlling reason. Meanwhile the Whigs of Congress had appealed to the country denouncing their promoted Vice-President. Clay was widely proclaimed the standard bearer of the party for 1844, and Tyler was burned in effigy and execrated. Henry Clay's prompt and courageous leadership in this exigency saved the Whig party from disintegration, but the progress was toilsome and self-sacrificing, with the patronage left in the hands of a recreant President, who used it to the utmost for his own political advantage.

Though left with no real following but that of the national office-holders—for Tyler was no organizer in politics—the President fought his own cause with coolness and intrepidity. A Whig revision of the tariff became needful for revenue; and here the presidential veto compelled a loss of land distribution to the states—another Whig measure on which Clay had set his heart. This was a Congress of much wasted energy; and Clay himself had resigned from it in March, 1842, partly from disgust and disappointment and partly so as to conduct his new canvass more advantageously. Tyler with his Virginian clique took up Texas annexation secretly, to make a diverting issue. Upon the assembling of the Twenty-eighth Congress, whose Senate was still controlled by the Whigs, though the new House was Democratic, President Tyler sprang his surprise. In April, 1844, a completed treaty for the immediate annexation of Texas was sent to the Senate and published. Army and Navy orders being called for, the President was shown ready to guaranty the safety of Texas by a hostile array against Mexico (*see ANNEXATIONS TO THE U. S.*).

Campaign of 1844.—Both parties in Congress resolved that Tyler should not win the stakes for himself. The Senate rejected his treaty and the House discountenanced this whole project. But Tyler succeeded in playing his trump card on the very eve of the presidential contest. The whole country was aroused on the subject. Both Clay and Van

Buren, the recognized adversaries, pronounced against Texas annexation. Clay carried the Whig convention readily, but when the Democrats met, Van Buren lost, and James K. Polk of Tennessee was made the candidate with a platform demanding both Texas and Oregon. Unfortunately for Clay's candidacy, the "Liberty" or anti-slavery party (*see* LIBERTY PARTY) had been revived, the year before, and nominated James G. Birney (*see*) for President. And now, with the Texas furor wild in the South, Andrew Jackson strongly favoring annexation, while the moral sense of the North recoiled at the thought of more slave soil, the contest became close. Clay, eager in his quest, trimmed on this new issue to make votes in a section sure to go against him, and in two "Alabama" letters weakened his first anti-Texas position. This course, in contrast to Polk's reticence, cost Clay the election; for enough of Birney's strength in New York went against him to give that state to the Democrats, and New York's vote decided the election. Some Whig states voted later than New York, knowing that the field was lost already. Polk's electoral total was 170 to Clay's 105.

When Congress reassembled, a uniform day throughout the Union was fixed for future elections. As to Texas, a joint resolution gave the President an option either to propose immediate union or to negotiate and submit a new treaty. Tyler himself took quickly the option which was meant for his successor, and in March, just as his term was closing, despatched a messenger to Texas under the first alternative. Polk allowed him the odium of an initiative; and Tyler, in return, placed upon Polk the odium of a war with Mexico, which speedily followed.

Campaign of 1848.—The Whig party, and especially northern Whigs, opposed as a minority the war with Mexico, which, though successfully waged, brought into the Union a great expanse of new territory, besides Texas, by which slavery hoped to profit. The antagonism of sections entered into the presidential campaign of 1848. The Democratic convention nominated Lewis Cass (*see*) of Michigan; but a secession of "Barnburners" (*see*), or Wilmot Proviso (*see*) men, among the New York delegates presaged trouble. The Whigs met at Philadelphia, and nominated Zachary Taylor (*see*), a Whig commander of the Mexican War, on the fourth ballot. Millard Fillmore (*see*) of New York was named for second place; his choice gave the only Whig assurance to the ticket. For won by Taylor's great popularity, notwithstanding he was a warrior with no civilian experience, a Louisiana man and a slaveholder, this convention adjourned in great confusion, adopting no platform whatever, resolution after resolution having been voted down. Two things favored Taylor's candidacy as the campaign progressed: his per-

sonal character—bluff, honest, manly and patriotic—and the outcome of northern revolt against him. Whigs like Webster, who declared the nomination "not fit to be made," lent their reluctant support at the last; while bolting Whig delegates who joined Democrats in a Free Soil (*see*) convention at Buffalo in August made ex-President Van Buren their nominee; and he, with a score of his own to settle with Cass, divided the Democracy and gave the empire state to the Whigs. As in 1844, New York state decided results, and Taylor and Fillmore won by 163 electoral votes to 127.

Whig Administration, 1849–1853.—The territories wrested from Mexico were under the new President's control from his inauguration, March, 1849, until Congress met in December. Of these, California (*see*) had suddenly become a full-fledged state in population, because of the gold discovery in 1848. Taylor loved his country and, although brought up a slaveholder, had no wish to see slavery extended. With his official sanction a California convention met at Sacramento, in early autumn, and framed a free state constitution which the people adopted. With less occasion the new administration encouraged the people of New Mexico to take a similar course. Southerners who had sustained the war with Mexico for extending the area of slavery viewed the unexpected situation with alarm. Though four slave states might yet be made of Texas under her compact of annexation, free California would at once disturb the equilibrium of sections and make freedom dominant in the Senate.

The Thirty-first Congress met in angry turbulence, December 3, sectional dissension on the increase. With southern Whigs insolent and northern Whigs insistent, that party lost control of the House, and after a three weeks' balloting for speaker, it was agreed that the sixty-third ballot should decide by a plurality. And thus was Howell Cobb of Georgia barely chosen against Robert C. Winthrop of Massachusetts, the speaker of the previous House. President Taylor pressed sensibly to have California admitted without conditions. Courteous but not confidential with Clay and Webster, he made a younger Whig, William H. Seward, his chief counsellor.

Clay, in disregard of the President's wishes but with patriotic ends in view, proposed, January, 1850, a grand compromise scheme for pacifying the sections and settling forever the moral rivalries of the Union. Historical speeches were made in March; that of Webster, on the fourth after a silence, deliberate and profound, approving in essence; Calhoun voiced southern discontent, and Seward pleaded for California's admission without extraneous conditions. Seward's appeal to a "higher law" (*see*) displeased Calhoun, who died that same month. A grand committee of the Senate took

Clay's plan into consideration and reported in May an "omnibus bill" to give it effect.

Worried over the difficulties of his administration, Taylor succumbed to a fever, caused by exposure to the sun at a Fourth of July celebration at the capital, and died the ninth. A second time were the Whigs baffled and divided by the death of their President at a critical time and the succession of their Vice-President. Millard Fillmore was no renegade, but a man of the full party faith, honest and sound. Conservative, however, by temperament and, withal, a jealous rival of his fellow Whig of western New York, Seward, his preferences tended to Clay's pacification. He made up a Cabinet of his own with Webster at the head, repelled Seward's advice, palliated Texas, and showed himself not unwilling to saddle the other territories upon California, to block or delay her admission as a state. Something of the dead warrior's stubborn courage stirred for the moment. Clay's "omnibus bill" was set aside, July 31, and by a large majority the Senate, next day, took up the California admission bill by itself. Clay still appealed for "reunion of the Union," with kind beseeching, but denounced all attempts in his section to try military strength against the government. He left for the seashore to recuperate; and presently, with no lead but that from the White House, Congress carried the Clay measures in separate bills which reached the President for signature as a sort of mutual compact (*see* COMPROMISE OF 1850).

Congress adjourned September 30. Neither in this nor the final session, nor, indeed, during the succeeding Congress, was any other legislation of historical consequence carried. Sectional passions yielded gradually to this Compromise of 1850, soon assumed and asserted to be final and immutable, through mere legislation. Disunion elements in the South were appeased. But the North had two objections to this sectional compact: that option "with or without slavery" in the new territorial bills as a precedent; and the stringent fugitive-slave act. The former deferred its mischief until 1853; but that of the other was felt at once. Riots arose in New York City, Detroit, Boston and elsewhere when peaceful black citizens were torn from home and family by the deputy marshals of the Union. Public meetings protested against the kidnapping features of this new act, and many states, as time went on, made counter legislation in "personal liberty laws" (*see*). Yet it is fair to say that slave holders rarely, if ever, caused a false arrest, but sought real fugitives, many of whom had long breathed the air of freedom (*see* FUGITIVE SLAVES).

Effort was made by the Whig leaders to secure acquiescence in the compromise. Despite all turbulence they presently succeeded. Large public meetings were called in leading cities, in favor of the "peace measures," in which lead-

ing men of both Whig and Democratic antecedents took part together, as speakers or writers of letters, and northern conservatives joined hands to put down radicals and agitators. Meanwhile the fall elections of 1850 generated great bitterness, and by the dissensions of "cotton" and "conscience" Whigs the Democrats profited. A Whig convention in New York developed bitter feud between the Seward and Fillmore Whigs (*see* SILVER GRAYS). In Massachusetts a coalition of Democrats and Free Soilers prevailed against George N. Briggs, who for seven placid Whig years had held the office of governor. New Jersey, Pennsylvania and Ohio showed Whig losses. Slowly, however, the sober second thought of the people, both North and South, came to sustain the compromise measures, as a settlement final and comprehensive. A congressional manifest headed by Clay, the next January, counselled strict adherence as the only pledge of national harmony. In the fall elections of 1851 tranquility succeeded turbulence, and integrity of this Union was the accepted watchword of the two great parties.

Campaign of 1852.—The national party conventions were both held at Baltimore in June, 1852. In that of the Democrats, June 1-5, the two-thirds rule cut off chief competitors, and Franklin Pierce of New Hampshire was nominated on the forty-ninth ballot. He was a man of amiable manners who had a fair record in the House and had served as a subordinate general in the Mexican War. With no two-thirds rule at all, the Whig convention, June 16-21, showed a fierce struggle of candidates. Clay, near to death's door, was strong enough to give preference for Fillmore, as one true and tried. But Seward Whigs and such as believed less in the settlement were for General Winfield Scott, while Webster improved his last opportunity for a reward due to his long and immeasurable services. Upon a first balloting Fillmore had 133, Scott 131 and Webster 29; and so the relative strength fairly continued. The friends of President and premier awaited the withdrawal of one in the other's favor. But no such courtesy came, and the exhausted convention, true to Whig prepossession, yielded to the military candidate on the fifty-third and decisive ballot. William A. Graham of North Carolina was nominated Vice-President.

But while both parties had voted to sustain the Compromise of 1850, only the Democratic platform was explicit. The Whigs had equivocated by an admission that time and experience might show the necessity of further legislation. Scott, moreover, made a non-committal acceptance of his nomination "with the resolutions annexed." All this called forth an angry protest from southern Whigs, repudiating the ticket. Northern Free Soilers, a hopeless minority, preferred assertion under a presidential candidate of their own. Clay and

Webster, the ablest men of the party, died during the campaign. The Whig party, or rather its remnant, marched in November to a Waterloo defeat. Pierce polled 254 electoral votes against 42 for the Whigs, and the covenant of 1850 was confided by the people for keeping to others than its party originators.

Conclusion.—The Whig party could not survive its two greatest leaders and orators. It inspired national fraternity while it lasted. It drew to its standard the conservative and respectable; broad-minded men, those of the professions, scholars, merchants, bankers, manufacturers, men of capital and such as projected great enterprises or thrived by them: leaders in society and those of social aspiration. But radical zealots, manual toilers, or the down-trodden from abroad, were little attracted. In details of government, state or national, Whigs administered ably, with wise and honest men in authority, taking pride in good results. But in comprehensive policies they sought conciliation too much for definiteness of principle. Unlike Federalists, the ancestors of so many of them, Whigs, though patrician, were fairly trustful of the people. But the Federalists in their day had been constructive in politics, while the Whigs left nothing permanent in history, except for one or two treaties. The early death of each of their two Presidents, with a vice-presidential succession, frustrated the policies intended. Even the Compromise of 1850, as a compact of North and South, was a glorious illusion, lasting less than four years. In fine, the drift of American politics had been, while this great party lasted, with its splendid rank and file, toward sectional strife over slavery; and for guidance through such perils Whig leaders proved too humane to steer in the one direction and too faint-hearted to take the other. The party fell by dissension and by its terrible propensity to misfortunes; but it loved the Union as it was and sought sincerely to uphold it.

See DEMOCRATIC PARTY; REPUBLICAN PARTY; SLAVERY CONTROVERSY.

References: A. Johnston, *Hist. of Am. Politics* (rev. ed., 1911); J. A. Woodburn, *Political Parties and Party Problems* (1903); L. Schurz, *Henry Clay* (1899); H. C. Lodge, *Daniel Webster* (1899); F. Bancroft, *Life of William H. Seward* (1900), I; W. MacDon-ald, *Jacksonian Democracy* (1906), *passim*; L. P. Garrison, *Westward Extension* (1906), *passim*; J. Schouler, *Hist. of U. S.* (1889), IV (1891), V, *passim*; J. B. McMaster, *Hist. of People of U. S.* (1906), VI (1910), VII, *passim*.

JAMES SCHOULER.

its leader was as aristocratic as the leader of the opposition, the DeLancey party. In the royal colonies in general, it was the party which had all along opposed the measures of the royal governors, which in the pre-Revolutionary controversies with the British ministry opposed it most vigorously. The numerical strength of the party varied greatly according to the measures which it embraced or opposed. In its opposition to the Stamp Act it had the support of the vast majority of the people. In its opposition to the Townshend Act, it encountered few enemies outside of the royal colonial officers, their immediate friends and adherents, and the conservative aristocracy which did not like resistance to established authority. When Whig resistance went so far as to summon a Continental Congress, the number of the party opponents greatly increased, and the maximum of opposition was reached when the leaders of the Whig party proposed independence. Therefore, when the party was at the height of its accomplishment—if we except the actual treaty of peace and the securing of independence—it was numerically the weakest, and encountered the greatest number of active opponents.

As soon as the principles of the party became defined, it appeared as a weak government party opposed to a strong imperial system. It favored the principle of local self-government, and it showed, in the state constitutions made under its auspices the strong emphasis it placed on the rights of the individual. It should be remembered, however, that many men who were leaders in the movement for independence were not so sympathetic with the democratic political reform carried out in the heyday of revolution. Neither Washington nor Hamilton was in full sympathy with the movement to put all political power in the hands of the masses.

An incomplete statistical study of some three hundred leaders of the Revolution in the several colonies discovers some interesting facts as to the character of individuals. Over 75 per cent of them seem to have been young men, under 45 years at the beginning of the war. About 50 per cent came of the middle or lower classes in colonial society, as far as we may determine by their vocation or that of their fathers. Fully 75 per cent belonged to some dissenting sect in religion, the remaining 25 per cent coming for the most part from south of the Mason and Dixon line. Over 33 per cent were college graduates, the great majority from Yale, Princeton, William and Mary and Harvard. These percentages must be read in the light of the fact that it was the colonial custom to leave political management to men of established social position, and, more important still, that only the men who attained the greatest prominence in the Revolution are included in the data used. No little significance must be attached to the fact that the Loyalist

WHIGS. The Whig party was the popular party in the American Revolution. As a Revolutionary party it had different antecedents in different colonies. In New York for example the Livingston faction in the local politics embraced the Revolutionary principles, though

literature is full of assertions that the Whigs are recruited from the lower classes, from the mob, while the Patriot literature is just as insistent that the Loyalists are aristocrats, unsympathetic with the people.

See LOYALISTS; REVOLUTION, AMERICAN, CAUSES OF.

References: G. E. Howard, *Preliminaries of the Am. Revolution* (1905); C. H. Van Tyne, "Loyalists" in *Am. Rev.* (1902); C. L. Becker "Hist. of Pol. Parties in Province of N. Y., 1760-1776" in Univ. of Wisconsin, History Series, *Bulletin* (1909). C. H. VAN TYNE.

WHIGS, BRITISH. Whig traditions and influence still survive in the Liberal party, particularly when Liberals are in office. It cannot be said that there is today a Whig party, or a well-defined Whig group in the House of Commons; for there is no Whig organization, no Whig press, and it would be impossible to discover voters who would describe themselves as Whigs. The term gradually ceased to be used in the parliamentary poll books after 1832—after the terms Liberal and Conservative came into service. It survived in Parliament, on the platform and in the newspapers until the general election of 1874. But except when used by Radicals, Nationalists and Labor politicians as an expression of distrust or contempt applied to moderate Liberals, Whig is a term that fell into desuetude after the extension of the franchise in 1885 and the realignment of political parties that resulted from Gladstone's Home Rule bill of 1886. With few exceptions the Whigs then grouped themselves with the Liberal Unionists, and by 1895 there had ceased to be any distinction between Liberal Unionists and Conservatives. The migration of the Whigs from the Liberal to the Conservative party in 1886 and the disappearance since 1886 of nearly all the few Whigs who adhered to Gladstone, has had a marked effect on the Liberal party. It has made it more Liberal, and made Liberal cabinets less exclusive and less aristocratic than they were from the time the cabinet system was established until Gladstone's last administration in 1892; for until 1886 Whigs who were of the House of Lords had dominated administrations.

The Whigs represented the section of the governing class that was not Tory or Conservative—chiefly territorial families identified with the revolution of 1688. To the last, Whigs were a cult rather than a political party. They were ever mindful of their order; seldom actuated by democratic sympathies; and seldom inclined to propaganda to increase the numbers of their order in the constituencies or in Parliament. After 1832, when nomination boroughs became fewer and the control of county elections less easy, the Whigs, to some degree, associated themselves with popular causes advocated by Liberals and Radicals, not to bring new men into the Whig

cult, for it was one into which men had to be born, but to add to the House of Commons strength of a Whig government or opposition. Liberal and Radical support was desired by the Whigs, provided that no representation in the ministry was demanded, and that the Liberals were content to accept Whig measures and to wait until the Whigs were ready to make concessions to democracy. Nevertheless English political development owes much to the Whigs. They established parliamentary government on its present basis at the Revolution of 1688. They contributed much between 1688 and 1760 to the formation of the cabinet system. They kept the established church in check in the first half of the eighteenth century. They stood for freedom of speech and of print during the era of the countermovement to Parliamentary reform between 1793 and 1820. They advocated the repeal of the Test Act and the removal of Catholic disabilities; and led by Grey, Russell, Durham, Graham, and Althorp, they carried the country through the crisis of 1831-32, and enacted the Reform Bill.

See CONSERVATIVE PARTY; HOUSE OF COMMONS; LIBERALS; PARTY GOVERNMENT IN GREAT BRITAIN.

References: T. E. May, *Constitutional Hist. of Eng.* (1899). EDWARD PORRITT.

WHIP, PARTY. Though but recently introduced into Congress, the party whipper-in or whip, is essential to the English Parliament. The whip is chosen by the party leader, whose henchman he is. His duties are: (1) to inform the leader of the state of party opinion; (2) to count the vote in every division and report the results to the Speaker; (3) to inform members when important divisions are expected and detain them until the division occurs; (4) to obtain pairs for those who must be absent; (5) to tell members how to vote. The government whip must also "keep a house," or a quorum, when government business is being transacted. In Congress the caucus committee usually gives the entire party a "call" to vote on an important measure. But in 1900 the congressional caucus (see CAUCUS, LEGISLATIVE) of each party chose a whip whose duties are to canvass the party on all doubtful issues and to inform the leader how many votes may be depended on. This office of the tactful persuader has been adopted to meet the needs of more personal party leadership in Congress. References: J. Bryce, *Am. Commonwealth* (4th ed., 1910), I, 203, note 3, 204; A. L. Lowell, *Government of England* (1908), I, 254, 297, 322, 448-457. J. M.

WHISKEY FRAUDS ON THE REVENUE. Immediately following the Civil War there were extensive frauds in the evasion of internal revenue duties on whiskey. The high rate of duty, \$1.50 per gallon in 1864-1865, and \$2.00 per gallon, or 800 per cent on the cost,

in 1866–1867, proved too strong a temptation. Administrative regulation also was careless and crude. According to David A. Wells, revenue commissioner for several years after the war, and historian of the whiskey fraud episode, there were repeated instances where distillers manufactured and fraudulently sold spirits varying in quantity from 20,000 to 80,000 gallons. The filling of barrels was done without supervision, and sometimes distillers were made inspectors of their own products. Later, government officials were involved; until there was organized a formidable Whiskey Ring which for a time controlled elections in some parts of the country, and openly defied the government. In 1875 Secretary Bristow of the Treasury Department collected evidence which led to the exposure of the frauds. See **REVENUE, INTERNAL**. References: D. A. Wells, *Practical Economics* (1885), 194–234; J. McDonald, *Secrets of the Great Whiskey Ring* (1880). D. R. D.

WHISKEY INSURRECTION. An outbreak in western Pennsylvania in 1794 against the enforcement of a federal excise law on domestic spirits is commonly called the Whiskey Insurrection. Excise had always been an odious tax in the United Kingdom; and its introduction into the colonies met with bitter opposition.

The legislatures of Maryland, Virginia, North Carolina, and Pennsylvania exhibited strong dislike to the excise when enacted by Congress in 1791; but it was in western Pennsylvania that opposition was most violent. Soon after the passage of the act, began the circulation of threats calculated to discourage citizens from accepting any offices connected with the enforcement of the excise, and from complying in any way with its provisions. The next step was a pretense of discontinuing the operation of registered stills. Then followed neighborhood meetings and conventions, in which intemperate resolutions were frequently passed, resulting in violent acts against the revenue officers. In 1792 the President approved "an act to provide for calling forth the militia to execute the laws of the Union, suppress insurrections and repel invasions," a measure directed in part against the lawless spirit.

The grievances of the protestors west of the Alleghenies were: (1) no action at law could be brought in their own local courts for offenses committed against the Federal Government, but that they had to go to Philadelphia for trial; (2) whiskey was the only valuable article in small bulk with which they could purchase commodities; (3) the law afforded them neither redress nor protection. June 5, 1794, the President approved an act intended to remedy some of the complaints. Meanwhile disturbances of a riotous nature occurred in several localities, and writs were

issued against non-complying distillers. This led to the burning of the house of General Neville, the inspector, on July 17 and other outrages. Proclamations were speedily issued by the President and the governor of Pennsylvania and federal and state commissioners in vain tried to secure the yielding of disaffected people. The President thereupon called out 15,000 militia; notwithstanding mass meetings, and resolutions that the civil authority could enforce the law, he ordered the army to advance. The insurgents offered no resistance, and the troops, after making a few arrests, withdrew. The effect of the whole movement was to strengthen the national Government. See **EXCISE TAX; INSURRECTIONS, HISTORY OF**. References: Pittsburg Carnegie Library, *Monthly Bulletin* (July, 1906); *Pa. Archives* (1876), 2d Ser., IV; H. H. Brackenridge, *Incidents of the Insurrection* (1795); W. Findley, *Hist. of the Insurrection* (1796); H. Adams, *Writings of Gallatin* (1879), III, 1–67. J. K. LACOCK.

WHISKEY RING. A group of conspirators composed of internal revenue officers and distillers—principally in St. Louis—and certain federal officials, at Washington which, from about 1870 to 1875, defrauded the Government of the excise tax on a large amount of whiskey. It was broken up by the investigation instituted by the Secretary of the Treasury, Benjamin H. Bristow. See **WHISKEY FRAUDS**. O. C. H.

WHITE HOUSE. The popular name for the executive mansion in Washington. Roosevelt while President substituted White House for Executive Mansion as the official name of the presidential residence. O. C. H.

WHITE, JOHN. John White (1805–1845) was born in Carter county, Tenn., February 14, 1805. The family removed to Kentucky, where he became manager of valuable salt works owned by his father. In 1823 he was admitted to the bar, practising at Richmond, and by 1825 was a leader in his profession in the state. From 1835 to 1845 he was a Whig member of the national House of Representatives, and in the Twenty-seventh Congress, 1841–43, was speaker. His most notable ruling was on March 23, 1842, when his decision established the rule:

That when a committee of the whole house shall rise and report that it finds itself without a quorum, and upon a vote or count of the house immediately thereafter it shall be ascertained that a quorum is present, it is not then in order to move a call of the house, but that the committee of the whole must be immediately resumed.

On his retirement from Congress he was appointed judge of the nineteenth judicial district of Kentucky. He committed suicide at Richmond, September 22, 1845. See **SPEAKER OF THE HOUSE**. References: A. C. Hinds,

Precedents of the House of Representatives (1909), IV, § 2968; M. R. Follett, *Speaker of the House* (1896).
W. MACD.

WHITEWASH. A farcial investigation of official corruption or wrong doing in which facts are disregarded or so colored that a report of exoneration results.
O. C. H.

WIGWAM. An appellation given to a large building in which political gatherings are held, particularly to the structure in which national nominating conventions meet. Also a Tammany (*see*) gathering place.
O. C. H.

WILD CAT BANKS. See **BANKS, WILD-CAT.**

WILLIAMS, JOHN SHARP. John Sharp Williams was born July 30, 1854, at Memphis, Tennessee; he was educated in private schools and at the Kentucky Military Institute, the University of the South, University of Virginia and at Heidelberg, Germany. He began the practice of law in Tennessee in 1877 but moved to Yazoo City, Mississippi, in 1878 where he became a lawyer-planter after the old Southern fashion. He was a delegate to the Democratic national convention in 1892 and was a representative in Congress from Mississippi from 1893 to 1909 and leader of the Democratic minority in the house from 1903 to 1909 in which position he was distinguished for keenness of debate and the greatest alertness as a parliamentarian. He was elected to the United States Senate in 1908 but did not take his seat until 1911; he is already a leader in that body (1913). See **DEMOCRATIC PARTY; MISSISSIPPI.**

W. E. D.

WILLIAMS, ROGER. Roger Williams (c. 1603-1863) was born in London about 1603. He graduated from Pembroke College, Cambridge, in 1626, and presently took episcopal orders. In 1631 he arrived in Massachusetts, and was chosen minister of the church at Salem. From the first his views regarding liberty of conscience and separation of church and state brought him into sharp antagonism to the colonial leaders. In 1632 he went to Plymouth, but in 1634 was invited back to Salem, where he reasserted his religious views and attacked the validity of the charter. In October, 1635, he was tried as a seditious person, and sentenced to leave the colony within six weeks; the time being later extended until spring. As he continued to express his opinions, he was in January, 1636, ordered to be arrested and sent to England. He fled to Rhode Island and founded Providence. In 1643 he went to England, and through the influence of the Earl of Warwick obtained a patent for Providence Plantations. He was one of the grantees of the Rhode Island charter of 1663,

and one of the assistants of the colony. He died at Providence in 1683. See **RELIGIOUS LIBERTY; RHODE ISLAND.** References: R. Williams, "Collected Writings" in Narragansett Club, *Publications* (1866-74); H. M. Dexter, *As to Roger Williams* (1876); O. S. Straus, *Roger Williams, the Pioneer of Religious Liberty* (1894); J. B. Richman, *Rhode Island: a Study in Separatism* (1905), ch. ii.

W. MACD.

WILMOT PROVISIO. President Polk (*see* **POLK, JAMES K.**) began the Mexican War with the expectation of acquiring a considerable cession of territory from Mexico. This intention was publicly avowed in his message of August 8, 1846, requesting of Congress an appropriation of \$2,000,000 to be used in acquiring the territory desired. The question at once arose whether it should become slave or free. The Wilmot Proviso was an amendment to the bill making the desired appropriation, providing, in effect, that slavery should never exist in the territory to be acquired. Broadly stated, the issue was whether slavery should permanently be confined to its existing limits, or whether it should begin a career of expansion over the territories belonging to the United States. In 1847 Congress passed the appropriation bill without the proviso, and the following year California was acquired with no restriction upon slavery. By the Compromise of 1850 (*see*) part of this territory became the free state of California, and from the remainder the territories of Utah (*see*) and New Mexico (*see*) were organized, with no determination of the status of slavery therein. The final decision of the broader issue raised by the Wilmot Proviso was reached only through the Civil War. See **SLAVERY CONTROVERSY.** Reference: J. Schouler, *Hist. of U. S.*, IV (1889), 543; V (1891), 66, 95 *et seq.*

M. M. Q.

WILSON-GORMAN TARIFF. This tariff was enacted in 1894, receiving its name from William L. Wilson, Democratic Representative from West Virginia, and chairman of the committee on ways and means; and from Arthur P. Gorman, chairman of the Senate committee on finance. The Democrats, owing to the revolt against the high duties of the McKinley tariff, were successful in the elections of 1890 and 1892. The panic of 1893 delayed immediate legislation; and as finally enacted, the tariff was by no means what the electorate expected; the House bill showed an honest purpose to remove some of the burdensome charges of the McKinley tariff, but the protective sentiment of the Senate, with which Gorman and a few Democratic followers were in full sympathy, destroyed all hopes of tariff reform. President Cleveland refused to sign the bill, and allowed it to become a law only by passive neglect, saying, "Senators have stolen and worn the

livery of Democratic tariff reform in the service of Republican protection." Wool was placed on the free list, and duties reimposed on sugar. More important was the inclusion of an income tax (*see*), a provision which proved fruitless, as it was speedily declared unconstitutional by the Supreme Court. **See** SIXTEENTH AMENDMENT; TARIFF POLICY OF THE UNITED STATES; TARIFF REFORM. **References:** F. W. Taussig, *Tariff History of the U. S.* (1910), 284-320; E. Stanwood, *Am. Tariff Controversies* (1903), II, 296-359; J. L. Laughlin and H. P. Willis, *Reciprocity* (1903), 230-269. D. R. D.

WILSON, JAMES. James Wilson was born in Scotland September 14, 1742. Having studied at Scotch universities he came to America in 1763. Here he studied law. In 1775 he was chosen a member of the Continental Congress. Wilson and some of the other members from the middle states, appreciative of the divided opinions of the people of that region, naturally were less eager for an announcement of the independence than were the leaders from Virginia and New England. When the time came, however, and a vote was finally necessary, Wilson voted for independence; without his vote the Pennsylvania delegation would have been evenly divided (*see* DECLARATION OF INDEPENDENCE). He was a member of Congress, 1775-1777, and again a member in 1783 and 1785-86. He was one of the great leaders in the Federal Convention of 1787. No man saw more clearly what was needed or strove more valiantly for a strong constitution and a real national government. He worked diligently for the adoption of the Constitution by Pennsylvania. In 1789 he became associate justice of the federal Supreme Court. He was a learned lawyer and writer; he died in 1798. **See** FEDERAL CONVENTION; SUPREME COURT OF THE UNITED STATES. **References:** J. DeW. Andrews, *Works of Wilson* (1896); A. C. McLaughlin, "James Wilson in the Philadelphia Convention" in *Pol. Sci. Quart.*, XII (1897), 1-20; J. M. Harlan, "James Wilson and the Formation of the Const." in *Am. Law Rev.*, XXXIV (1900), 481-504; B. A. Konkle and others in *Am. Law Register*, LV (1907). A. C. McL.

WILSON, WOODROW. Woodrow Wilson (1856-), twenty-eighth President of the United States, was born at Staunton, Va., December 28, 1856. From 1882 to 1883 he practised law at Atlanta, Ga. He was professor of history and political economy at Bryn Mawr, 1885-88, and of the same subjects at Wesleyan, 1888-90. He was then called to Princeton, where he was successively professor of jurisprudence and political economy, 1890-95, of jurisprudence, 1895-97, and of jurisprudence and politics, 1897-1902. From 1902 to 1910 he was president of Princeton, resigning to become governor of New Jersey. As governor he

secured the passage of corrupt practices and direct primaries acts, a workmen's compensation act, and an act for state control of public service corporations. He successfully opposed the candidacy of James Smith, Jr., for the United States Senate on a high tariff platform. In 1912 he was nominated for President by the Democrats on the forty-sixth ballot, and elected, receiving 435 electoral votes against 88 for Roosevelt and 8 for Taft, but his popular vote was only 6,286,214 in a total of 15,031,169. His writings include: *Congressional Government* (1885), *The State* (1889), *Division and Reunion* (1893), *History of the American People* (1902), and *Constitutional Government in the United States* (1908). **References:** *Am. Year Book*, 1911, 1912, *Cong. Directory*, 63 Cong., 1 Sess.

W. MACD.

WINTHROP, JOHN. John Winthrop was born in Groton, England, January 12, 1587, and died March 26, 1649. In 1629 he was made governor of the Massachusetts Bay Company and the following year came to America as the leader of the "Puritan Migration," settling at Boston. He was reelected governor until 1634 and served in that office 1637-40; 1641-43; 1646-49. His influence was dominant in establishing the Massachusetts Bay Colony. He advocated the establishment of government which would protect the state church. The form of aristocratic republic which he favored was portrayed in the well-known letter, to Thomas Hooker, 1638, in which he spoke of "the unwarrantableness * * of referring matters of Counsel or judicature to the body of the people of which the best part is always the least, and of that best part the wiser part is always the lesser." According to his plan officers once chosen were really not responsible to the people. **See** COLONIAL CORPORATION; MASSACHUSETTS. **References:** J. Winthrop, *Hist. of New England* (1908), "Winthrop Papers" in *Mass. Hist. Soc., Collections* (1863), 4th Ser., III, VII; 5th Ser., I (1871); J. Twichell, *John Winthrop* (1891); R. C. Winthrop, *Life and Letters of John Winthrop* (1864-1867). J. A. J.

WINTHROP, ROBERT CHARLES. Robert C. Winthrop (1809-1894) was born at Boston, May 12, 1809. He was a lineal descendant of Governor John Winthrop (*see*). He studied law with Daniel Webster, and in 1831 was admitted to the bar. From 1834 to 1840 he was a member of the Massachusetts general court, serving as speaker from 1838 to 1840. He was then elected to Congress, where he sat, save for a brief interval in 1842, until 1850. In 1847, the Whigs having a majority in the House, he was chosen Speaker. He was again a candidate for Speaker in 1849; but after 62 ballots, there being no party majority, owing to the defection of Giddings, Howell Cobb, a

Democrat, was chosen by plurality vote. On the resignation of Webster, in 1850, he was appointed Senator for the remainder of the term; but a combination of Democrats and Free-Soilers prevented him from obtaining an election in 1851. In the same year he was unsuccessful as the Whig candidate for governor, and thereafter took no active part in public affairs. He was for thirty years president of the Massachusetts Historical Society, and published a number of addresses and historical works, the most important being *Life and Letters of John Winthrop* (1869). He died at Boston, November 16, 1894. See **SPEAKER OF THE HOUSE; WHIG PARTY**. References: R. C. Winthrop, Jr., *Memoir of Robert C. Winthrop* (1897); Mass. Hist. Society, *Tributes to the Memory of Robert C. Winthrop* (1894); T. C. Smith, *Parties and Slavery* (1906).

W. MACD.

WIRELESS TELEGRAPHY. The Wireless Ship Act of June 24, 1910, enacted by Congress provides that it shall be unlawful for any ocean-going steamer carrying passengers and carrying fifty or more persons, including passengers and crew, to leave or attempt to leave any port of the United States unless such steamer shall be equipped with an efficient apparatus for radio-communication, in good working order, in charge of a person skilled in the use of such apparatus, which apparatus shall be capable of transmitting and receiving messages over a distance of at least one hundred miles, night or day. This does not apply to steamers plying between ports less than two hundred miles apart. As a direct

result of the *Titanic* disaster (see **ACCIDENTS, RAILROAD AND STEAMSHIP**), a bill was signed by President Taft, July 23, 1912, amending the act of June 24, 1910. In addition to the provisions of the original act, this bill provided

The radio equipment must be in charge of two or more persons skilled in the use of such apparatus, one or the other of whom shall be on duty at all times while the vessel is being navigated.

The obvious relation of government to wireless telegraphy, first of all, concerns the establishment of foreign wireless telegraph stations in the United States. The Attorney General ruled (XXIV *Op. A. G.* 101): that

Apart from this specific clause of the Constitution, I may refer you to the carefully considered opinion of this Department (22 *Op.* 13), in which the inherent authority of the President to control the landing of foreign submarine cables on the shores of the United States was set forth. The conclusions therein reached are not affected by the means employed to transmit the messages, for whether transmitted by the ordinary telegraph wires, by submarine cables, or by any of the wireless systems, the power of Government to regulate commerce and to preserve the territorial integrity of this country depends not upon the means employed but upon the end attained.

See **ACCIDENTS, RAILROAD AND STEAMSHIP; TELEGRAPH, REGULATION OF; SUBMARINE CABLES, REGULATION OF**.

References: *Cong. Record*, 61 Cong., 2 Sess. (1910); International Wireless Telegraph Convention, *Proceedings* (1909).

G. W. PIERCE.

WIRE-PULLING. Underhand management and intrigue made use of by political leaders in guiding, controlling and manipulating a political party organization. O. C. H.

WISCONSIN

Early History.—Nicolet, in 1634, was the first European to visit the territory now known as Wisconsin. Temporary French settlements date back to 1660; permanent, from 1717. Immigration of Americans began to be important about 1820, of Germans in the forties, of Norwegians in the fifties, and later that of Bohemians and Poles, and an unusual number of other nationalities. This territory belonged to France until 1763. From 1763 to 1774 it was under the British Crown, but without organized government. From 1774 to 1783 it was officially a part of the province of Quebec. Ceded to the United States in 1783, it remained under British control until 1796, and was not effectively occupied by the American government until after the War of 1812. In the meantime, it was claimed by Virginia until 1784, and by Massachusetts until 1785. In 1787 it fell under the provisions of the Northwest Ordinance (see **ORDINANCE OF 1787**). On May 7, 1800, it became part of Indiana Territory, and in 1803 the first justices

of the peace were appointed. On February 3, 1809, it became part of Illinois territory, and on April 18, 1818, of Michigan territory. In 1818, by Michigan authority, county government was established, and in 1821 the Michigan code succeeded the *coutume de Paris*, which had prevailed. On April 20, 1836, it became an organized territory, including at first Iowa and other areas beyond the Mississippi.

Constitution and Amendments.—The Wisconsin Enabling Act was passed August 10, 1846. The constitution first drawn up was rejected in 1847. The second was adopted March 13, 1848, accepted by Congress, May 29, 1848, and is still in force. Article I consists of a "Declaration of Rights," containing, in addition to the customary provisions, the following: the truth is a defense in cases of libel; leases of agricultural land may not extend to over fifteen years; debtors may have a "reasonable" amount of property exempted from seizure; and no public money may be granted to religious institutions. By a judi-

cial interpretation of a certain section of this article, the supreme court decided, 1890, that the reading of the Bible in the public schools is unconstitutional.

Article III, gives the suffrage to all white citizens of the United States, to foreigners who have declared their intention of becoming such, and to civilized Indians; all subject to the limitations of being over twenty-one years, and having one year's residence in the state. All elections, except in townships, are to be by ballot. The legislature is empowered to extend the suffrage, subject to popular ap-

days. In 1899 women were given the privilege of voting at all elections relating to schools.

Article IV provides for a legislature consisting of a assembly, to number between 54 and 100; and a senate to be between a third and a fourth as numerous. Districts were to be arranged in accordance with population as ascertained by the national decennial censuses, and by state censuses taken in the middle of the intervals. By amendment in 1910 the quinquennial census and apportionment were abolished. Districts are to be as compact as possible, and representatives and senators are



BOUNDARIES OF THE STATE OF WISCONSIN, SHOWING TERRITORIAL CHANGES

proval, expressed by a majority of the votes cast in the election. This provision was the result of a vigorous agitation on the subject of negro suffrage, and in 1849 this question was submitted at the general election to the people. The bulk of the voters did not cast ballots on the proposition, believing that the "majority of votes cast" referred to the total number cast at the time. As a result a majority of the votes on this particular proposal were affirmative. The state government, following the popular interpretation, held it lost. In 1866, however, a court decision decided that it had been carried, and negro suffrage became a fact. An amendment of 1882 allows the legislature to fix a residence requirement for the election district, not to exceed thirty

to be qualified electors of their respective districts. At first the legislature met annually, representatives being elected annually, and senators biennially, one-half retiring each election. By amendment in 1882, sessions and representative terms were made biennial, and senators' terms four years. Counties of 900 square miles and over, can be divided only by a majority of all legal voters therein; private bills may treat of one subject only; the legislature may not authorize a lottery, nor grant divorce. By amendments in 1871 and 1902, no private laws may be passed making private incorporations, etc. It may delegate power to county supervisors.

Article V provides for a governor and lieutenant governor, to hold office two years. The

governor must return bills he wishes to veto within three days. To pass them over his veto requires a two-thirds vote. The secretary of state, treasurer, and attorney general, are elected biennially. County sheriffs are ineligible for reelection. The constitution provides for supreme, circuit, and probate courts, and justices of the peace, and authorizes municipal and inferior county courts. No special supreme court justices were provided for until an amendment in 1871. In 1909, the court was increased from five to seven. By amendment in 1889, the justice with the longest term of service is made, *ex-officio*, chief justice. Members of the supreme court are elected for ten year terms. Circuit judges hold for six years, and must be residents of their districts. Judges may be removed by a two-thirds vote of both houses of the legislature. By amendment of 1882, clerks of court are chosen by election biennially. All officials may be impeached by a majority vote of all the members of the assembly, and are not to exercise their functions during their trial by the senate.

The constitution provides for an elected superintendent of public instruction, chosen, by amendment of 1904, every four years. A state university must be maintained. The rejected constitution of 1846 forbade the incorporation of banks; the constitution of 1848 contained a similar prohibition, but allowed the legislature to submit the question to the people under certain restrictions. In 1852, a popular vote authorized banks, and in 1902 an amendment was adopted allowing the establishment of a more extended banking system, subject to a two-thirds vote of all the members of both houses. Other corporations were to be incorporated under general laws, unless it appeared that special charters were absolutely necessary; by the before noted amendment they cannot now be incorporated by special law. The state can contract only \$100,000 debt, except for war purposes, and, by amendment of 1908, for highways. To create such debt requires a three-fifths vote of all members of the legislature. The credit of the state cannot be given to individuals, associations or corporations. Taxes are to be uniform, but an amendment of 1908, permits a graduated income tax with exemptions. Amendments must be adopted by a majority of all the members of both houses, published three months before the next legislative election, passed by that legislature, and submitted to the people. A constitutional convention may be called if demanded by one legislature and a popular vote, but none has ever met. Local government, the form of which is only to be inferred from the constitution, consists of townships, school districts, incorporated villages, cities, and counties. By amendment of 1874, the borrowing capacity of these bodies is limited, and the legislature is empowered to limit their taxation. A constitutional amendment of 1902 forbade the

granting of passes on railroads, and in 1910 another authorized the legislature to undertake a policy of acquiring a forest reserve for the preservation of water power.

Constitutional Interpretation and Administrative Expansion.—The liquor agitation has always been of importance, the net result being comparatively high license, which local authorities can raise but not lower; certain forms of local option (*see*), and certain prohibited areas, such as that about the state university (*see* LIQUOR LEGISLATION).

There have been two especially interesting periods of legislative activity. The first was in the late sixties and early seventies. This "Granger" (*see* GRANGERS) agitation culminated in 1874 in the passage of the "Potter Law" which created a board of commissioners, with power of regulating railroad rates. This law was sustained by the state supreme court, and in part by the United States District Court. It was, however repealed in 1876. The second period began about 1900 and saw almost a revolution in governmental methods. Its most notable feature was the wide extension of the commission form of control for state activities. Boards to administer public property and institutions such as the board of control, managing the charitable and penal institutions, and the boards of regents of the state university and normal schools had long been in existence. The characteristic of the more important of the new commissions is the power of regulating or investigating the conduct of individuals and corporations, both public and private. In 1899 a tax commission was created, and in 1903 it was charged with the physical valuation of railroads. In 1903 the banking department was reorganized and the commission was given greatly enlarged powers. In 1905 a railroad commission was created with wide powers, to which in 1907 were added powers over other public utilities (*see* COMMISSIONS IN AMERICAN GOVERNMENT). Great use has been made of such expert service along the line of what is now known as the "conservation" (*see*) movement. In 1899 a fishery commission and a geological and natural history survey were provided; in 1901, a board of health, a board of agriculture and live stock sanitary board; in 1905, board of forestry, and commissions on tuberculosis, and grain and warehouses. In 1909 a rigid pure food (*see*) law was passed, and a commission provided to enforce it. Along the line of education, a free library commission was established in 1899. The establishment of a civil service commission is but one of a number of attempts to purify and simplify the machinery of politics. In 1897 a rigorous corrupt practices act was passed which was strengthened in 1911; in 1899 an act for the registration of lobbyists, which was strengthened in 1905; in 1903 an elaborate primary election law was adopted. In 1909 a commission was appointed on uni-

form legislation, and in 1911 one on "public affairs."

The state has also engaged actively in fostering research and betterment, both upon its own initiative and by subsidizing institutions already in existence. In 1899 appropriations were made to associations of firemen, and cheesemakers; in 1901, to the horticultural society and the dairymen's association; in 1903, aid was given to associations of butter-makers, and poultrymen, and an agricultural experiment station, and a bureau of labor and industrial statistics were established. Appropriations have for a long time been made to the state Historical Society, the Wisconsin Academy of Arts and Sciences is assisted, and in 1909 a state history commission was established.

Parties.—The Democratic party was formerly strong, but for the last fifteen years interest has centered in the factional conflicts within the Republican party, between the "Half Breed" or "Progressive" followers of Senator La Follette (*see*) and the "Stalwarts" or "Regulars." The former have been successful in the main. The Socialist party in 1910 won control of Milwaukee. It lost the city at the next election, but is still influential in the legislature. In 1912 the Democrats won the electoral vote; the Republicans stood second; the Progressives cast about fifteen and one-half per cent of the total vote, and the Socialists something over eight per cent.

Population.—In 1850 the population was 305,591; in 1880, 1,315,477; in 1900, 2,069,042; in 1910, 2,333, 860.

References: F. E. Baker, "Bibliographical Hist. of the Two Wisconsin Constitutional Conventions" in *Wis. Hist. Soc., Proceedings* (1898), 123-159, "Brief Hist. of the Elective Franchise in Wisconsin" in *ibid* (1894), 113-130; M. D. Hammond, "Financial Hist. of Wisconsin Territory" in *ibid* (1894), 131-167; F. L. Holmes, "First Constitutional Convention in Wisconsin" in *ibid* (1896), 227-251; L. P. Kellogg, "Organization, Boundaries, and Names of Wisconsin Counties," in *ibid* (1904), 184-231; V. Mason, "The Fugitive Slave Law in Wisconsin, with Reference to Nullification Sentiment" in *ibid* (1896), 117-144; T. C. Smith, "Free Soil Party in Wisconsin" in *ibid* (1895), 97-162; J. B. Sanborn, "The Impeachment of Levi Hubbell" in *ibid* (1905), 194-213; R. G. Thwaites, *Wisconsin* (1908); C. R. Fish, "The Public Archives of Wisconsin" in *Am. Hist. Assoc., Report*, I (1905), 377-419; G. W. Peek, Ed., *Cyclopedia of Wisconsin* (1906).

CARL RUSSELL FISH.

WITNESSES. In judicial procedure a witness is one who is duly called upon to testify under oath as to matters within his knowledge. By rules of procedure some persons are disqualified from testifying on account of want

of mental capacity, as, for instance, idiots, insane persons, and infants who have not attained the age of discretion. Others who are qualified to testify may be of such character that their testimony is not entitled to the weight which should be given to a fully qualified witness. Furthermore, the witness may be so related to the subject matter or the parties as that in the particular case his testimony should not be received or should be received under limitations as to its credibility and weight. And finally the competency of the testimony given or offered as determining whether it shall be considered as evidence is regulated by the rules of evidence fixed by law. Under constitutional guaranties of religious freedom the religious belief of a witness can not be made a ground for his disqualification to testify (*see* RELIGIOUS LIBERTY). As to criminal prosecutions, it is usually provided in state constitutions as it is in the Fifth and Sixth Amendments to the Federal Constitution that the accused shall not be compelled to be a witness against himself and that he has a right to be confronted with the witnesses against him and to have compulsory process for obtaining witnesses in his favor. These are privileges which the accused may waive. **See** TRIALS.

E McC.

WIZARD OF KINDERHOOK. A sobriquet of Martin Van Buren (*see*) in recognition of his political adroitness; Kinderhook, N. Y., was his birthplace and for a time his place of residence.

O. C. H.

WOLCOTT, OLIVER. Oliver Wolcott (1760-1833) was born at Litchfield, Conn., January 11, 1760. He saw minor service in the Revolutionary army, was admitted to the bar in 1781, and for the next few years held financial offices under the state. In 1788 he became state comptroller of public accounts. On the organization of the federal Treasury Department, in September, 1789, he was made auditor, and in 1791 comptroller. In February, 1795, he succeeded Hamilton as Secretary of the Treasury, and acted virtually as a lieutenant of Hamilton. A staunch Federalist, he was charged by the Republicans with speculation, the evidence of which the Federalists were accused of destroying by burning the treasury building. He demanded an investigation, but could not obtain satisfaction, and in November, 1800, resigned. He was immediately appointed judge of the newly-created second district, and held the place until legislated out of office by the repeal of the judiciary act, in 1802. In 1817 he was elected governor of Connecticut, and retained the office by successive elections for ten years. In 1818 he presided over the Connecticut constitutional convention. He died at New York City, June 1, 1833. George Gibbs's *Memoirs of the Administrations of Washington and John*

Adams" (1846) is based upon Wolcott's papers in the Connecticut Historical Society. See TREASURY DEPARTMENT. References: D. R. Dewey, *Financial Hist. of the U. S.* (1907), ch. v; R. Hildreth, *Hist. of the U. S.* (1849-52), IV-VI. W. MACD.

WOMAN SUFFRAGE

Present Status.—The most general statement concerning the basis of suffrage is thus put in the *American and English Encyclopedia of Law* (2d ed., 1899, 611):

The right of suffrage may be regulated, modified or withdrawn by the authority which conferred it. It is not a natural right of which a person cannot be deprived but a privilege which may be granted or denied by the people or by the department of government to which they have delegated power in the matter, as general policy may require. "In nearly all countries the right has been denied to women, minors, aliens and persons *non compos mentis*" (*American and English Encyclopedia of Law*, 2d ed.).

Women exercise full political power in nine states (1913): Wyoming (since 1869), Colorado (since 1893), Utah (since 1896), Idaho (since 1896), Washington (since 1910), California (since 1911), Arizona (since 1912), Kansas (since 1912), and Oregon (since 1912), and in the territory of Alaska (1912). They possess a limited suffrage in twenty-two other states. They have some form of school suffrage in the following sixteen states: Connecticut (since 1893), Illinois (since 1891), Kentucky (1838-1901), Massachusetts (since 1879), Michigan (since 1875), Minnesota (since 1875), Nebraska (since 1883), New Hampshire (since 1878), New Mexico (since 1910), New Jersey (since 1887), North Dakota and South Dakota (since 1887), Ohio (since 1894), Vermont (since 1880), Wisconsin (since 1900), and Oklahoma (since 1890); a certain tax-paying suffrage in Iowa (since 1894) and in Louisiana (since 1898); while in three other states, Michigan (since 1875 for school and 1908 for municipal), Montana (since 1887), and New York (since 1880 for school and 1901 for municipal), women enjoy both school and tax-paying suffrage. In Mississippi and Arkansas they have minor fragments of the franchise. In Illinois they have been granted the right so far as the legislature can confer it: they are, since July 1, 1913, entitled to vote for presidential electors, for all officers of cities, villages and towns except police magistrates, for a number of county and state officers, and on all questions submitted to a vote of the electors.

Women vote for all officers including members of Parliament in Bosnia, Finland, the Commonwealth of Australia, Iceland, the Isle of Man, New Zealand, and Norway. More limited rights, including municipal suffrage, however, have been extended to women in Denmark, England, Ireland, Scotland, Canada, and Sweden. In Russia women householders elect

members to the village council; in Italy and France women engaged in trade may vote for the tribunal of commerce; and similar privileges are enjoyed by women in Belgium, women with real estate in Hungary, women farmers in Württemberg, and tax-paying women in several other European countries.

Early Efforts to Secure Woman's Suffrage.—The effort to secure the right of suffrage for women in the United States may be said to have assumed organized form with the holding of the Seneca Falls Convention on July 19 and 20, 1848, and to have been one aspect of the movement towards the more general recognition of human rights, which characterized the middle of the nineteenth century. There had been prior to that time protests by individuals against the limitations surrounding the activities of women. During the revolutionary struggle, Mercy Otis Warren and Abigail Adams, among others, had urged the recognition of women in the establishment of the new government; Mary Wollstonecraft's *Vindication of the Rights of Women*, published in England in 1790, had been widely read in America; the limitations placed by the common law about the acting capacity of married women with reference to their property, their earnings, and their children, were the occasion of many protests resulting in legislative enactment in a number of states, notably in New York in 1848. The lack of educational opportunity, both cultural and professional, had called forth the efforts of Emma Willard, Mary Lyon, the founders of Oberlin College, Elizabeth Blackwell, and others. Lucy Stone, after 1847, lectured eloquently and effectively on woman's rights throughout a large part of the United States and in Canada. Foreign visitors, especially Frances Wright (1818-1820) and Harriet Martineau (1834-1836) directed attention to the obvious inconsistency between the principles enunciated in the Declaration of Independence and the practice followed by the government supposedly based upon those principles. Indeed, as reform in many of these fields of women's interest can be accomplished only through legislation, the effort to secure for women the right to education, marital equality, professional and industrial opportunity, has often seemed identical with the effort to secure political equality; and the terms "women's rights" and "women's suffrage" have been almost interchangeable.

The early efforts in behalf of women were likewise closely associated with the efforts in

behalf of negro emancipation. Many of the ablest and most zealous abolitionists (*see*) were women, and in many instances those whose first interest was in the negro gave a hearty and enthusiastic support to the claims put forth by the women. Notable among these were Wendell Phillips (*see*), who pleaded the cause of women delegates before the World's Anti-Slavery Convention held in London in 1840, which, however, resisted his appeal and rejected the women; William Lloyd Garrison (*see*), who refused to sit in that convention because women were not admitted; Henry B. Blackwell, Robert Purvis, Frederick Douglass, and others.

The rejection of women delegates by the Anti-Slavery Convention in 1840 was the occasion for planning a convention devoted to the proclamation of women's rights; and such a convention was called, though not until eight years later, by some of those rejected delegates, together with others who had observed their rejection. In July, 1848, Lucretia Mott, Martha Wright, Elizabeth Cady Stanton, and Mary Ann McClintock issued a call in Seneca Falls for a convention "to discuss the social, civil, and religious conditions and rights of women." James Mott presided over the convention, which adopted a Declaration of Sentiments modeled in form after the Declaration of Independence, proclaiming the equality of men and women and enumerating many of the wrongs that women were alleged to have suffered at the hands of men. Among those grievances were the usurpation of all governmental power, the refusal to grant to women the elective franchise, the subjection of women to laws that they had no part in making, the elevation of ignorant and degraded men above intelligent women, the marital oppression of women, taxation without representation, the monopoly of business and professional employment, the withholding of education from women, the adherence on the part of men to a different code of morals, and their assumption of the right to assign to women a "proper sphere of action." On the basis of these grievances, in anticipation "of misconception, misrepresentation and ridicule," a demand was put forth "for immediate admission to all the rights and privileges of citizens of the United States," including the elective franchise.

The first National Woman's Rights Convention, which marked the launching of the national movement, was held two years later Oct. 23 and 24, 1850, in Worcester, Mass. The call to this convention was issued by Lucy Stone and 55 other women as well as by 33 men, among whom were Wendell Phillips, Ralph Waldo Emerson, William Lloyd Garrison, Thomas Wentworth Higginson, William Henry Channing, Adin Ballou, Gerrit Smith, A. Bronson Alcott, Samuel J. May, William Elder and Oliver Johnston, Lucretia Mott, Elizabeth Cady Stanton, Mary Grew, Elizabeth Smith

Miller, Elizabeth Buffum Chase, Jane G. Swiss-helm, and Harriot K. Hunt. The convention, at which Mrs. Paulina Wright Davis presided, was attended by men and women from thirteen states. The call, said in part:

The tyranny which degrades and crushes wives and mothers sits no longer lightly on the world's conscience—the heart's home-worship feels the stain of stooping at a dishonored altar. Manhood begins to feel the shame of muddying the springs from which it draws its highest life; and womanhood is everywhere awakening to assert its divinely chartered rights, and to fulfill its noblest duties.

Organizations.—There are now a number of different organizations whose purpose it is to secure full political equality for women. In most communities in the United States there are found more or less vigorous "equal suffrage" associations. In every state there is a state association in which the local groups find representation. In addition there is a National American Woman Suffrage Association, whose organ is the *Woman's Journal*, issued weekly in Boston. The methods adopted by these organizations have been the usual forms of propaganda, educational work of various kinds, and appearance before the various legislative bodies. Attention should be called also to the Equal Suffrage Party, represented by state organizations in at least eleven states and by a national organization, which adopts the party form of organization and applies its energies exclusively to influencing the personnel of legislative bodies.

In addition to such organizations as these, devoted exclusively or chiefly to obtaining equality in government for women, many organizations having other purposes endorse the movement. The federation of women's clubs in a number of states, the Progressive (*see*), Socialist (*see*), and Prohibition (*see*), parties, the National Women's Trade Union League, and the American Federation of Labor have declared for the movement. There are also in several states, notably Massachusetts and New York, organizations that have been formed to oppose the extension of the franchise to women.

Arguments For and Against.—Various arguments are advanced by those who seek the enfranchisement of women. It is argued in the first place, that women are citizens, bearing most of the burdens of citizenship. They own property, pay taxes, and suffer from the consequences of corrupt or inefficient government. They do not, like other disfranchised groups—infants, idiots and criminals—lack the ability to vote honestly and intelligently; and they therefore have a natural and civil right to claim this political right.

It is also argued that, for certain aspects of governmental service, women have a peculiar ability and should be allowed to make their peculiar contribution. Attention is called to the fact that the care of the young, the aged, the poor, the dependent, and the defective

has always been peculiarly the privilege of women; and that women, notably, of course, but not exclusively in family life, have been entrusted with the safe-guarding of those interests which have to do with the comfort and well-being of the community. This argument applies especially to participation in municipal government, the maintenance of cleanliness and decency in the city streets, the exercise of proper health functions, the administration of that larger housekeeping, which is perhaps the chief function of the modern city. It is not, however, inapplicable to the state and federal government in so far as these governments are assuming constantly such additional functions as control over the working conditions, especially of women and children, better care of the dependent and defective groups, closer watch over child and adolescent life, regulation of the preparation and manufacture of food and clothing, education adapted to the actual needs of children, provision for play and supervision of play, the guardianship of young persons in early working life. It is urged that for domestic women, especially, who have undertaken to administer in competent ways the affairs of any family in a modern community, the ballot has become a domestic necessity. In so far as women have become wage-earners they need the ballot, it is said, in order that they may express directly their judgment upon matters which affect the demand for their labor, the conditions under which it is performed, and possibly the wages paid.

It is claimed too, that to extend the ballot to women would counteract to a considerable extent the influence of the recent immigrant vote, since more men than women are added by immigration to the foreign groups in this country. And it is moreover asserted that the foreign women, especially, feel the consequences of corrupt and incompetent municipal government, and from them may be expected rational and sound judgment upon such questions as housing, disposal of waste, the control of markets, the care of the streets, the abolition of dangerous forms of recreation, and other questions bearing directly upon decent living in the crowded quarters of American cities.

Attention is especially called to the alliance that often exists between the political "machine" and the two interests most hostile to sound physical and social life, the liquor interest and the interest of organized vice. It is particularly urged that decent women have always been especially charged with the maintenance of sound family life. It is claimed that probably only by the direct influence of women can government be reclaimed as the protector of the home and of sound morals instead of remaining the protector of the saloon and the disorderly house.

Those who are opposed to the extension of full political power to women belong to three

groups: (1) those who oppose extension of the suffrage on the ground that, till the problem of the ignorant and of the immigrant vote and of the negro and the corrupt vote of the degraded white American, has been more nearly solved, the extension of the ballot to any untried group is a perilous experiment; (2) those who claim that women are unfitted for political life and governmental action, that they can accomplish their ends by influence and persuasion better than by the use of the ballot, and that political life has become so corrupt and degraded as to be unfit for the participation of decent women, who would inevitably suffer loss of charm and womanliness. They urge that to women belongs the home; to men the state; and that to add political duties to the natural domestic obligations of women is to overburden them in ways that are neither normal or fair; (3) in addition to the considerable number of women who take this latter position, there are a considerable number who deny the general interest of women in governmental matters. They admit, however, the interest of special groups of women, such as tax-paying women or property-holding women, or the interest of all women in special subjects, such as the control of public education.

Constitutional Difficulties in Securing Woman's Suffrage.—The difficulties involved in securing to women the right to vote have been very great. The most obvious difficulties are perhaps those of a constitutional nature. The qualifications of electors in both federal and state elections were determined within limits set by the United States Constitution (Art. V) by the various states. Moreover, the right of suffrage is held to be not a privilege of citizenship but a governmental right expressly bestowed by the sovereign authority. Therefore, although women have always been citizens of the United States, they can enjoy this right only by express grant. And no such grant resulted from the adoption of the Fourteenth and Fifteenth Amendments to the Constitution of the United States (*Minor vs. Happersett*, 21 *Wallace* 162; *U. S. vs. Anthony*, 11 *Blatchford* 200; *Van Valkenberg vs. Brown*, 43 *California* 43). The right, except so far as it applies to offices not named and questions not regulated by the Constitution, must be obtained therefor either by amendment to the Federal Constitution expressly granting this right to women or by obtaining express legislation in each of the separate states. And in the states, in so far as suffrage is regulated by the state constitution, constitutional amendment and not merely legislative action is necessary. This necessity of securing constitutional amendment, which involves action either on the part of successive legislatures (*Delaware Constitution*, 1897, Art. XV) or submission to the lawful voters in addition to legislative action (*e. g.*, *Kansas Constitution*, Art. XIV), renders the undertaking peculiarly difficult.

Under recent constitutional amendments in certain states, *e. g.*, Wisconsin, it is possible to substitute the referendum for the process of the constitutional change.

Political Difficulties in Securing Woman's Suffrage.—In many cases the difficulties are not only constitutional but political. It has been pointed out that the brewing and distilling interests are strong politically in most states. Recent investigations have shown a similar alliance between organized vice and the governmental machine. The liquor interest, then, brewers, distillers, saloon proprietors, and those who profit from the organization and control of the immoral, have been always opposed to every effort on the part of women to secure the ballot. This has meant that the women have had at every point to confront a persistent, skillful, practised, and wealthy lobby. Moreover, in the submission of the question of amendment to the voters, it is necessary in some states to obtain a majority, not of all votes cast on the particular question, but of all votes cast at the election. This means that, if the movement is to succeed, it must do so by prevailing not only against corruption but against inertia and against prejudice. The result has sometimes been success in one house of the legislature with defeat in the other, or success in both houses with defeat at the polls. For example, an amendment has twice been submitted unsuccessfully in Kansas (1867 and 1894), in Oregon five times (1884, 1900, 1906, 1908, and 1910), and South Dakota three times (1890, 1898, and 1910). In Washington, where the right was exercised by the women under territorial organization and taken away by questionable judicial interpretation (*Bloomer vs. Todd*, 3 *Wash. T.* 599) the question was twice unsuccessfully submitted to the voters (1889 and 1898) before the right was reacquired in 1910. The question has likewise been unsuccessfully submitted in Michigan (1874 and 1912), Nebraska (1882), New Hampshire (1903), Oklahoma (1910), and Rhode Island (1887); and municipal suffrage obtained in Michigan by legislative act was lost by judicial interpretation. When obtained in Colorado (1893) and in Idaho (1896) the effort was endorsed by all political parties and secured with their permission.

Use of the Ballot by Women.—The use of the ballot by women should be briefly discussed from several points of view: (1) the extent of which they have become office-holders; (2) the extent to which they have controlled office-holding by men according to peculiar principles of any kind; (3) the kind of legislation if any in which they have been especially interested.

(1) **Election of Women to Office.**—A few women have been elected to the legislature in Idaho, Utah, Wyoming and Colorado, to the office of mayor in Kansas, and to many positions of a municipal character, or connected

with the school system, not only in the states in which they exercise the full suffrage but in those in which a fragmentary right has been secured. Women have likewise sat as delegates in the national party conventions. In other countries, women office-holders have been more frequently chosen than in the United States. In Finland a considerable number of women have been elected to the Parliament. There have been women mayors in England, Australia, and New Zealand. Women city councilors have been elected in Denmark, Sweden, Norway, and Iceland.

(2) **Influence on the Selection and Election of Men Candidates.**—As has been noted, a so-called Women's Suffrage party has been organized in eleven states, the purpose of which is to secure the election of officers who favor and the defeat of those who oppose the admission of women to political equality. But in the suffrage states the women have acted in general with the two great political parties. In three notable instances, however, they have acted independently of party and in a manner to indicate their peculiar interests. In Colorado they are responsible for the election in opposition to both parties of a juvenile court judge in whose hands the interests of children were believed to be safe; and the right of recall has twice been exercised in Seattle, 1911, and Tacoma, 1911, to remove municipal executives who were believed to be dominated by the organized vice of the community.

(3) **Influence upon Legislation.**—With reference to the legislation in which women voters have been especially interested, it may be noted that they have been concerned to obtain or to improve laws bearing on the marital equality of women as well as laws giving larger protection to girls, especially those dealing with the so-called age of consent and the care of illegitimate children, non-support laws, child labor and compulsory school laws, and other social legislation.

See BALLOT; ELECTION SYSTEM IN U. S.; SUFFRAGE; WOMEN, LEGAL RIGHTS OF.

References: E. C. Stanton, S. B. Anthony, and M. J. Gage, Eds., *History of Woman Suffrage* (1887-1902); H. L. Sumner, *Equal Suffrage; Result of an Investigation in Colorado* (1909); F. Kelley, *Some Ethical Gains through Legislation* (1910), ch. v; J. Addams, *Newer Ideals of Peace* (1907), ch. vii; B. D. Knabe, "Recent Strides of Woman Suffrage" in *World's Work*, XXII (1911), 14733-45; *Am. and English Encyclopedia of Law* (2d ed.), X, 591; E. M. Phelps, *Selected Articles on Woman Suffrage* (1910); National Woman Suffrage Association, *Miscellaneous Publications; Woman's Journal* (1870 to date); E. A. Hecker, *Short Hist. of Women's Rights* (1911); K. Schirmacher, *Modern Woman's Rights Movement* (1912), ch. i; C. A. Beard, *Readings in Am. Government and Politics* (1911), 405-410; C. L. Jones, *Read-*

ings on Parties and Elections (1912), 226-237; *Am. Year Book*, 1910, 156, *ibid*, 1911, 188, *ibid*, 1912 58, 71.

SOPHONISBA P. BRECKINRIDGE.

WOMAN'S RIGHTS PARTY. This party cannot properly be called a party, probably, if the term connotes a fully organized body of participants in elections and in partisan warfare. But it put forth candidates in 1884 and 1888. In the former campaign it nominated Belva A. Lockwood for President and Marietta L. Stow for Vice-President. Its platform, besides a declaration in favor of woman's suffrage, advocated various other reforms. In 1888 Mrs. Lockwood was again presented as a candidate for the presidency and Alfred H. Love for the vice-presidency. See WOMAN SUFFRAGE. Reference: T. H. McKee, *National Conventions and Platforms* (1901), 226-229, 256. A. C. McL.

WOMEN, LEGAL RIGHTS OF. In respect of legal rights, as distinguished from political and professional rights, there has never been, in the English system of law, any very considerable discrimination against women on the ground of sex alone. The privilege of voting and, generally, of holding office has been denied to women till recent years (*see* WOMAN SUFFRAGE), and while women were formerly barred from most professions and trades, the present tendency of the law is not only to give them equal privileges with men, but to extend some privileges and protections not given men (*see* LABOR, WOMEN'S, LEGISLATIVE CONTROL OF). Under the English common law, an unmarried woman was entitled to practically the same rights and privileges as a man; she could hold and convey real and personal property, she could contract freely and effectively, and, with some exceptions, arising generally out of her inability to bear arms, she stood legally on an equal footing with man. The rules of male heirship and of benefit of clergy were perhaps the most important exceptions to this general rule of legal equality.

In the case of married women, however, the common law strongly discriminated against them and in favor of their husbands, both as to personal status and as to property rights. Equity later relieved the property of married women from their husbands' control under certain circumstances, and modern statutes have now practically ended the inferior legal position of married women, both as to personal status and as to property rights.

At Common Law.—The common law as to husband and wife arose from the social and political circumstances of the time, which required that the family and its resources be governed by a powerful and responsible head. The husband was this head, and the wife's legal existence was practically merged in his. He had the sole right to choose the family

home, to regulate the affairs of the household, and to direct the conduct of all its members including the wife. The services of the wife, as well as her society, were at the command of the husband; he could take her earnings and could sue any person who, by injuring her or by enticing her away, deprived him of her services or society. In converse to these rights of the husband were certain duties on his part: he must support her in proper style, and if he did not, she could buy necessities on his credit; having the power to direct her actions, he alone was liable for torts and crimes committed by her in his presence, the law presuming that she acted under his coercion. On marriage, the wife's property or the effective control of it passed to the husband. Her choses in possession became his at once, and he had the power to take her choses in action and her personal estates in realty (such as leases) and make them his by reducing them to his possession. The title to her realty remained in her, but the control of it, and the right to take all the profits arising from it, passed at once to the husband, and continued during their joint lives, or, if a child was born, the husband's right (called *curtesy*) lasted during his life. The wife got no right in the husband's personality, but on his death she received her dower—an interest lasting for her life—in one-third in value of all the lands owned by him at any time during the marriage. As the husband thus got all of the wife's property, he was held liable for her ante-nuptial contracts and for her torts. She was held to have no power to contract in her own behalf, either with her husband or with third persons, because her legal existence was merged in that of her husband. For the same reason neither husband nor wife could sue the other at law, nor could either testify for or against the other.

In Equity.—With the passing of the social and political conditions which had brought forth the common law of husband and wife, the absolute control by the husband became unnecessary and unjust. The courts of equity took upon themselves the protection of the wife in the enjoyment of her property, and if property was given to a woman for her separate use, equity would not permit the husband to exercise his common-law rights over it but would allow the wife to control it. Equity did not entirely remove the wife's common-law disability to contract, but subjected her separate estate to contracts regarding it. Equity also protected the wife's property in another way: if a husband found it necessary to go into equity to obtain his marital rights in any of his wife's property, equity would assist him only on condition that he make a suitable provision for the wife's separate use out of the property thus obtained. Equity also, when necessary, disregarded the common-law unity of husband and wife which prevented contracts between them, and would, in proper cases, en-

force such contracts (see LAW, COMMON; EQUITY).

Under Modern Statutes.—These equitable principles and even more liberal rules have now become a part of the statute law of England and the United States. The American statutes differ greatly in detail. They practically everywhere provide that a wife shall retain, as her separate estate, free from any control by her husband, all property she owned at the time of the marriage, and usually all that comes to her after marriage. She is given power to contract with reference to this separate estate and in most states to contract generally as if she were unmarried, though in many states she is expressly denied the power to become a surety. In many states husband and wife can now contract directly with each other. In some states the husband retains his right of curtesy in his wife's realty, but in many this right has been abolished, thus depriving the husband absolutely of any interest in any of his wife's property; the wife almost everywhere retains her dower interest in his realty and in some states her interest has been increased. As the husband no longer gets his wife's property, he is generally relieved from liability for her ante-nuptial contracts and for her torts, but the presumption of his coercion (though abolished by statute in some states) generally serves still, in the absence of affirmative proof that she acted of her own free will, to make him liable for torts and crimes committed by her in his presence, and to relieve her from liability for them. The wife is very generally given the right to her earnings, but the husband is still bound to support her, and she can therefore still buy necessities on his credit; a few states make both husband and wife liable for necessities purchased for the family. The general result of the statutory changes has been decidedly to the advantage of married women; the husband's rights in the wife's property have been largely obliterated, while her rights in his have been retained and sometimes increased, and many of his common-law obligations and responsibilities are still binding on him.

See LABOR, WOMEN'S; WOMAN SUFFRAGE.

References: W. Blackstone, *Commentaries*, I, 442-445, II, 213-216, 433-36, IV, 367-369; J. Schouler, *Domestic Relations* (1895), chs. ii-xi; E. Peck, *Domestic Relations* (1913), chs. ii-viii.

EVANS HOLBROOK.

WOMEN'S LABOR. See LABOR, WOMEN'S.

WOMEN'S PRISONS. See PRISONS FOR WOMEN.

WOOD, LEONARD. Leonard Wood (1860-) was born at Winchester, N. H., October 9, 1860. In 1886 he was appointed assistant surgeon in the United States Army, with the rank of lieutenant. In the same year he served

under Lawton in an expedition against the Apache Indians. He was made a captain in 1891. May 8, 1898, he was commissioned colonel of the First United States Volunteer Cavalry, familiarly known as the "Rough Riders"; was made brigadier general, July 8, for his services at Las Guasimas and San Juan Hill; and December 7 became a major general. In 1901 he was appointed brigadier general in the regular army, and in 1903 major general, with the position of chief of staff. He was military governor of Santiago in 1898-99, and thereafter of Cuba until the withdrawal of the American troops in May, 1902. He was shortly transferred to the Philippines, where he was governor of Moro province from 1903 to 1906, and commander of the Philippine division from 1906 to 1908. He became Chief of Staff in 1910. An attempt to legislate him out of office in 1912 was vetoed by President Taft. See CUBA AND CUBAN DIPLOMACY; PHILIPPINE ANNEXATION. **References:** Secretary of War, *Annual Reports* (1898-1912); A. G. Robinson, *Cuba and The Intervention* (1905).

W. MacD.

WOOLSEY, THEODORE DWIGHT. Theodore D. Woolsey (1801-1889) was born at New York City, October 31, 1801. He studied law at Philadelphia, theology at Princeton, N. J., and Greek in Germany. From 1831 to 1846 he was professor of Greek at Yale, and was then elected president, a position which he held until 1871, when he resigned. After he became president he turned his attention to political science and international law, in the latter field becoming the leading American authority. His numerous publications include *Introduction to the Study of International Law* (6th ed., 1891); *Political Science, or the State Theoretically and Practically Considered* (2 vols., 1878); and *Communism and Socialism* (1880). He edited Francis Lieber's *Civil Liberty and Self-Government* (1875), and the same author's *Manual of Political Ethics* (2 vols., 1881); and was one of the founders, and for a number of years the editor, of the *New Englander*. He died at New Haven, July 1, 1889. See INFLUENCE IN GOVERNMENT; INTERNATIONAL LAW. **References:** J. H. Thayer in *Atlantic Monthly*, LXIV (1889), 557-562; T. Dwight in *New Englander*, LIII (1890), 69-81.

W. MacD

WORCESTER vs. GEORGIA. In the Supreme Court of Georgia it was determined in a criminal prosecution that Worcester had violated the laws of the state by residing within the territory of the Cherokee nation which was included in the state boundaries without the license of the governor of the state, such residence being prohibited by statute. On his appeal to the Supreme Court of the United States (1832, 6 *Peters* 515) on the ground that the decision of the state court was in deroga-

tion of rights and privileges claimed by him under treaties between the United States and the Cherokee Nation and that the state statute was repugnant to the treaties and laws of the United States, it was held, first, that the Cherokee nation was an independent nation, recognized in treaties between it and the United States as having the sovereign authority to make treaties of war and peace, exercise the powers of local self-government, and assert exclusive jurisdiction over its territory, subject only to the protection of the United States, which being accepted, prevented interference on the part of other foreign governments; and, second, that the state of Georgia within whose limits such territory was situated had no power to legislate as to the rights of white persons residing within such territory; with the result that the conviction of Worcester of a crime against the laws of the state for residing in such territory without the license of the governor of the state, was without authority and void. **References:** W. W. Willoughby, *Constitutional Law* (1910), ch. xx; G. F. Canfield, in *Am. Law Rev.*, XV (1881), 21; J. B. Thayer, in *Atlantic Monthly*, LXVIII (1891), 540, 676. E. McC.

WORKERS, POLITICAL. A term used to designate the immediate subordinates of the boss (*see*) in the political ring (*see*), who "work the political machine" in their several localities, manipulate primaries, and carry out the orders of the leaders; also used, without derogatory significance, of those who work at elections or during campaigns. O. C. H.

WORKHOUSES. *See* HOUSES OF CORRECTION.

WORKINGMEN'S INSURANCE. This term is used to cover what is now more generally called "social insurance" and comprises the various plans for insurance against the losses or misfortunes befalling workingmen through industrial accidents, occupational diseases, sickness, disablement whether temporary or permanent, total or partial; and involuntary unemployment. Germany has led the way and tried the most extensive experiments in this field for a quarter of a century, though all industrial states have now adopted some part of the programme of social insurance, and are making rapid progress in its extension. *See* INSURANCE AND SOCIAL WELFARE; INSURANCE, INDUSTRIAL; INSURANCE, LEGAL BASIS AND REGULATION OF; OLD AGE PENSIONS AND OLD AGE INSURANCE; SAVINGS BANK INSURANCE; UNEMPLOYMENT. **References:** L. K. Frankel and M. M. Dawson, *Workingmen's Insurance in Europe* (1910); F. W. Lewis, *State Insurance* (1909); H. R. Seager, *Social Insurance* (1910); C. R. Henderson, *Industrial Insurance in the United States* (1909).

S. McC. L.

WORKMEN'S COMPENSATION. That the cost of protection against industrial injuries should be a charge upon industry and be borne by the consumer like other costs of production, has been fully accepted in most countries of the civilized world save the United States; and the common law of employers' liability has been superseded by workmen's compensation acts which compel the employer to indemnify his workmen for injuries not caused by wilful misconduct of the victim himself.

No stronger movement of constructive legislation has taken place in recent years than that toward a radical reform of the law of employers' liability. Commissions appointed by the legislatures of the leading industrial states have made careful and extended studies into the legal, economic, and social problems involved, and have recommended radical departures from the preëxisting common law principle of employers' liability based on fault. The principle of compensation, which has been substituted therefore involves: (1) payments for injuries or death, irrespective of fault or negligence, except where caused by wilful misconduct; (2) a benefit payable, bearing a direct relation to the former earning capacity, subject to minimum and maximum amounts, and not intended to give full indemnity; (3) payment of the benefit in periodical instalments; (4) denial of compensation during a brief initial period, in order to eliminate the great mass of insignificant injuries, but liberal provision for medical treatment; (5) encouragement of arbitration; (6) abrogation of the right of action at common law, except where the fault of the employer is aggravated. The compensation may be provided for either through an obligation falling on the employer of the injured person or through insurance.

See EMPLOYERS' LIABILITY; FACTORY LEGISLATION; INDUSTRIAL INJURIES; LABOR, PROTECTION TO; LABOR, RELATION OF THE STATE TO; OCCUPATIONAL DISEASES.

References: A. T. Saunders, Comp., *Conference of Commissions on Compensation for Industrial Accidents* (1910); L. K. Frankel and M. Dawson, *Workmen's Insurance in Europe* (1910); Schwedtmann and Emery, *Am. Labor Legislation Rev.*, I (1911), No. 3, 96-114, II (1912), No. 3, 467-475, No. 4, III (1913), No. 2; A. Shadwell, *Industrial Efficiency* (1906), II, 147-170; L. D. Clark, *Law of the Employment of Labor* (1911), 187-204; C. R. Henderson, *Industrial Insurance in the U. S.* (1909); U. S. Commissioner of Labor, "Workmen's Insurance and Compensation Systems in Europe" in *24th Annual Report* (1909); G. Zacher, *Die Arbeiter Versicherung im Ausland* (1900-1907).

C. F. GETTEMY.

WORLD POWER, UNITED STATES AS A. **General Application.**—Literally speaking, every nation is a world power in so far as it under-

takes to protect its citizens and to further their commercial interests in all parts of the world. This the United States has done from the beginning. For instance, from its earliest days it has been interested in the Far East; it has negotiated treaties there; it has exacted reparation for outrages committed against Americans; and, when need be, it has supported its demands by a show of force. In Africa it has had what Secretary Freylinghuysen, in 1884, called "a quasi-parental relationship" to the negro republic of Liberia. In South America it has not only exercised a well known friendly and protecting influence, but when it has had grievances to be redressed it has actually sent military expeditions, as to the Falkland Islands in 1831, and to the Paraguay River in 1850.

The term "world power" as currently applied today means not merely a state possessing wide interests, but more especially one that claims, and is strong enough to enforce its claim, to be consulted wherever those interests may be affected directly or indirectly. As the world gets more closely knit together into a single community of nations, what touches one touches all, and international politics inevitably tend to become world politics, in which every great state takes part.

In this sense the United States has only recently grown to be a world power; indeed, a cardinal feature of its foreign policy, the Monroe Doctrine (*see*), is based on the opposite conception, namely that America and Europe are separate continents whose political affairs are distinct and should be kept so. The United States has remained faithful to this theory on its negative as well as on its positive side; and has up to the present day kept carefully out of immediate European politics and complications. Asia was not mentioned in the Monroe Doctrine, the question whether the doctrine applied to that continent was not raised until the annexation of the Philippines, and was then promptly answered in the negative by the American people.

Effect of Spanish War.—It is not too much to say that the United States assumed the position of a world power as a consequence of the war with Spain in 1898. Although that was not the primary reason for a development which rested on fundamental causes, and must have been asserted in any case within a short time. What the war did was to reveal to other nations the resources for offense as well as defense possessed by the American people; still more it awakened the Americans themselves to a livelier sense of their own strength. It gave them colonial possessions in another hemisphere; it broadened their outlook and enlarged their ambitions. At the same time the rapid development of their industries stirred up a desire for new commercial outlets, and the tremendous political changes occurring in the Far East forced them,

now that they held territory there, to assume a decided attitude. Secretary Hay's "Open Door" (*see*) Circular of September 6, 1899, may be taken as a first assertion that the United States intended henceforth to occupy a prominent place in the politics of the Far East. It has maintained that place ever since. Whether in connection with the Boxer troubles or the Russo-Japanese War, the development of China or the Manchurian question, no one has disputed the claims of America to speak with authority.

Relations with Europe.—In other parts of the globe the present attitude of the United States, if somewhat illogical in itself, tends none the less to confirm its position as a world power. While favoring Pan-Americanism and resenting everything that looks like intrusion on the part of Europe in the western hemisphere, the American people reluctantly, and to a great extent unconsciously, are taking a more active part in European and African affairs. Secretary Hay's circular to the powers concerning the treatment of the Jews in Roumania (1902), and his despatch to the Russian government in regard to the Jews in Russia (1903), however justified by humanity, were acts of interference in the affairs of European powers. As for Africa, as early as 1880 the United States participated in the Madrid conference about Morocco, and therefore, naturally, did so at the far more important one at Algeiras in 1906, where its representative played a considerable role in the final settlement. Also in 1885 it shared in the Berlin conference respecting the partition of Africa; and in its benevolent intervention in Liberia (*see*) in 1909, it has assumed what looks suspiciously like the beginning of a protectorate over African territory—territory, too, where naval officers have recommended the establishment of an American coaling station. These acts may not have been of great importance in themselves, and most Americans realize that active interference on their part in the affairs of the old world would weaken the moral strength of the Monroe Doctrine. Nevertheless, the United States finds it increasingly difficult to keep as clear of European politics as it has in the past, and some day abstention may become impossible. The position of a world power means not only profit and greatness—it also implies new responsibilities and perhaps the necessity for painful sacrifices.

See ARBITRATION AND PEACE; DRAGO DOCTRINE; COMMERCIAL POLICY AND RELATIONS OF THE UNITED STATES; FOREIGN POLICY OF THE UNITED STATES; INFLUENCE IN GOVERNMENT; INTERNATIONAL LAW; INTERNATIONAL UNIONS; MONROE DOCTRINE; OPEN DOOR; TREATIES OF THE UNITED STATES.

References: A. C. Coolidge, *U. S. as a World Power* (1908); A. B. Hart, *Foundations of Am. Foreign Policy* (1901), ch. i; J. B. Moore, *Am. Diplomacy* (1905), *passim*; *Digest of In-*

ternational Law (1906); J. H. Latané, *Am. as a World Power* (1907); A. T. Mahan, "Growth of Our National Feeling" in *World's Work*, III, Feb., 1902, 1763; *Foreign Relations of the U. S.* (annual), *passim*.

A. C. COOLIDGE.

WRIT OF ASSISTANCE. A writ provided for by a statute of Charles II and confirmed by later statutes. In England it issued from the court of exchequer. In America during the French war (1755–1763) such writs were issued as means of enforcing the revenue law. They gave authority to board a ship in port and to search for smuggled goods, and also to enter vaults, warehouses, and other places. Directed to the "Justices of the Peace, Sheriffs, Constables and all other our Officers and Subjects," the writ directed them to "be aiding, assisting, and helping" the customs officer in the execution of his duty. On application for a writ, in 1761, a great discussion arose before the Massachusetts superior court. Oxenbridge Thacher and James Otis appeared in opposition to the writ. Otis, John Adams tells us, was "a flame of fire." He eloquently declaimed against the legality of the writ, declaring that an act against the Constitution and natural equity was void. After some delay the writ was issued. Otis's declamation against general warrants—warrants which do not specify the place to be searched or the person or thing sought—was in part doubtless a foundation for the later constitutional provision against them. See **WARRANTS**. **References:** J. Quincy, *Reports* (1865), Appendix I; W. MacDonald, *Select Charters* (1899), 258. A. C. McL.

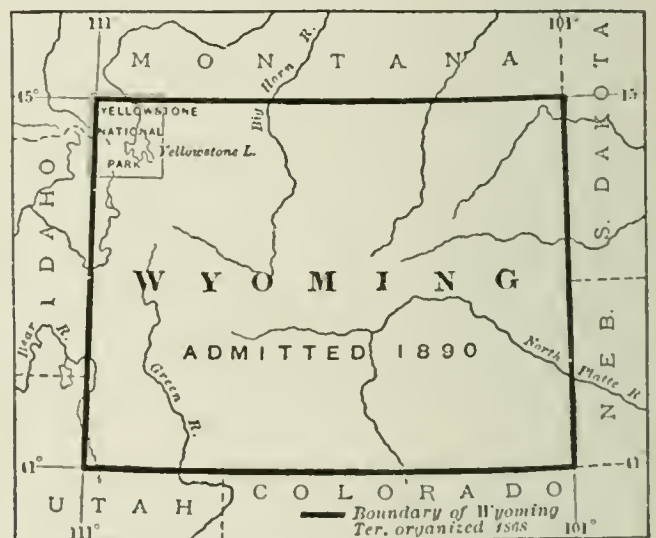
WRIT OF ERROR. A writ by which a superior court commands an inferior court of record to transmit to it for review, the record of a suit, which has reached final determination in the court below. In this country it may also be issued under some circumstances, as when a question concerning the Federal Constitution or laws is invalid. It lies only to correct errors of law. See **APPEALS FROM LEGAL DECISIONS**; **CERTIORARI**. H. M. B.

WRITS, COMMON LAW. A written precept or command directed to the sheriff or other public officer, or directly to the person whose action it is desired to command, directing the doing or refraining from doing some act. Originally it issued in the name of the king or of some one for him; but in modern practice many officers are authorized to issue writs. Those issued in the name of the Crown or government are original writs. Judicial writs are issued under the seal of the court, and relate to some step or proceeding in a case at law or in equity. H. M. B.

WYANDOTTE CONSTITUTION. A constitution of Kansas under which she was ad-

mitted to the Union, so called from the fact that it was adopted (1859) at Wyandotte. See **KANSAS**. O. C. H.

WYOMING. Wyoming's territory was visited by fur traders as early as 1743–44, when Verendrye and his sons traversed the region. John Colter, one of the members of the Lewis and Clark expedition, discovered the Yellowstone Park and crossed the Rocky Mountains in 1807. In 1811 the overland party of the Pacific Fur Company crossed the region. Thereafter, trappers, traders, and explorers followed the natural trails of its valleys and passes, making the Oregon Trail a great pioneer highway to the Pacific. Hostility of Indians led to appropriations by Congress, beginning in 1846, for posts to succor and protect the traveling immigrants. Fort Kearny was built in 1848 and Fort Laramie was purchased in 1859. A Mormon settlement was made in 1853 on Green River but abandoned in 1855. Settlements of any significance were delayed until the discovery of gold in 1867. A population of 20,789 in 1880 had increased to 145,905 in 1910.



BOUNDARIES OF THE STATE OF WYOMING

The greater part of Wyoming was acquired by the United States with the purchase of Louisiana in 1803. It was successively included in the District and Territory of Louisiana, the Territory of Missouri, the Indian Country, the Territory of Dakota. That smaller portion of Wyoming lying west of the Rocky Mountains was partly acquired with the Oregon Country and partly by war with Mexico. The Territory of Wyoming was organized in 1868. The state was admitted to the Union on July 11, 1890, under a constitution adopted November 5, 1889.

The constitution divides the powers of government into three "distinct" departments, legislative, executive, and judicial. The legislature is composed of a senate and house of representatives and meets in regular session biennially and not exceeding forty days. Sen-

ators are elected for terms of four years, in such manner that one-half are holdovers. Representatives are elected for terms of two years. Each county is both a senatorial and a representative district, entitled to at least one senator and one representative. The entire number of representatives shall never be less than twice nor more than three times the total number of senators.

The executive power is vested in a governor elected for a four years' term. Other elective state officers are the secretary of state, auditor, treasurer, superintendent of public instruction, all elected for terms of four years. The governor is commander-in-chief of the militia. Under regulations made by law, he has power to remit fines and forfeitures, and to grant reprieves and pardons. He has a suspensive veto on legislation, including items of appropriation bills, which may be overcome by a two-thirds vote of all members. The governor, secretary of state, state treasurer, and superintendent of public instruction constitute a board of land commissioners to administer public lands. The state auditor, treasurer, and secretary of state constitute a board of tax equalization.

The judicial power is vested in the senate as a court of impeachment, a supreme court, district courts, justices of the peace, courts of arbitration, and municipal courts. The supreme court has general appellate power, and a general superintending power over all inferior courts. Justices of the Supreme Court number three, and are elected for terms of eight years. District judges are elected for terms of six years.

The legislature provides by general law for the organization of counties, and for township organization and government. The organization and classification of municipal corpora-

tions is also provided for by general laws. Sheridan and Cheyenne have adopted (1913) commission governments.

Political rights and privileges are exercised without distinction of race, color, or sex. Women have voted in the territory since 1869. No person is entitled to vote unless able to read the state constitution.

The system of public education includes free schools of every grade and a university. The university is governed by a board of trustees appointed by the governor, with the superintendent of public instruction and the president of the university as members *ex officio*. Funds derived from public lands largely support the educational system.

In national politics the state voted for Republicans in 1892, 1900, 1904, and 1908, and for the Democrats in 1896 and 1912. The state administration has been controlled by Republicans from 1890 to 1892, by Democrats and Populists from 1892 to 1895, and by Republicans from 1895 to the present. But the governor in 1913 was elected by a fusion of Democrats with independent Republicans, and he afterwards joined the Progressives.

Political issues in recent years have included regulation of the liquor traffic, corrupt practices acts (*see*), reforms of assessment and taxation, commission government for cities (*see* COMMISSION SYSTEM OF CITY GOVERNMENT), initiative (*see*), referendum (*see*), and recall (*see*), and the direct primary (*see* PRIMARY, DIRECT).

See CONSTITUTIONS, STATE, CHARACTERISTICS OF; STATE GOVERNMENTS, CHARACTERISTICS OF.

References: H. H. Bancroft, *Nevada, Colorado, and Wyoming* (1890), 659-806; G. R. Hebard, *Government of Wyoming* (1904); F. N. Thorpe, *Federal and State Constitutions* (1909), VII, 4105-4155. C. A. DUNIWAY.

X

X Y Z. In 1797 three commissioners, Charles C. Pinckney, John Marshall, and Elbridge Gerry, were sent from the United States to France to seek to arrange the difficulties between the two countries. Soon after reaching Paris they were approached unofficially by several persons from the French foreign office. These messengers made various proposals, saying that France would expect a loan from America, and suggesting that a gift of some \$240,000 to the Directory would be of material service in the negotiations. They said they wanted money; "It is expected that you will offer money." The American commissioners replied "No, no; not a sixpence." The

Americans soon left Paris, Gerry unwisely remaining behind for a time. When the despatches of the commissioners were published in America, three of the emissaries were designated as X, Y, and Z. On the publication of the despatches containing information of these unworthy demands, there was much excitement in America and strong feeling against France. The names of three emissaries were Hottinguer, Bellamy, and Hautral. See FRANCE, DIPLOMATIC RELATIONS WITH; MARSHALL, JOHN; PINCKNEY, CHARLES G. References: J. S. Bassett, *Federalist System* (1906), ch. xvi; Am. State Papers, *Foreign Relations*, II, 158. A. C. McL.

Y

YANKEE. A term with the following application in United States history: (1) inhabitants of New England; (2) natives of the United States, so called by Europeans; (3) soldiers of the Union army, so called by the inhabitants of the seceded states during the Civil War. It is of uncertain origin, but commonly said to have been given to the English colonists by the Massachusetts Indians.

O. C. H.

YARDS AND DOCKS, BUREAU OF. The Bureau of Yards and Docks is one of the bureaus of the United States Navy Department (*see*). It is charged with the construction and maintenance of navy yards (*see*), naval stations and floating dry docks. It is also charged with the preparation of plans for, and the supervision of, the construction of naval hospitals and marine barracks. **References:** Secretary of the Navy, *Annual Report*; J. A. Fairlie, *National Administration of the U. S.* (1905), 159.

A. N. H.

YAZOO FRAUDS. In 1789 Georgia sold 25,400,000 acres of western lands, in the region of the Yazoo River, to three companies for \$207,580. The contracts were not carried out. In 1795 some 35,000,000 acres in the same general region were sold to four companies for \$500,000. Charges of fraud caused the rescinding of the contract by the next legislature. After Georgia ceded her western lands to the United States, in 1802, the above mentioned companies sought relief from Congress, and under the act of Mar. 31, 1814, a board of commissioners apportioned \$5,000,000 among the claimants of 1795. **See PUBLIC LAND AND PUBLIC LAND POLICY; PUBLIC LANDS, STATE.** **Reference:** C. H. Haskins, "Yazoo Land Companies" in *Am. Hist. Assoc., Papers*, V (1901).

P. J. T.

YEAS AND NAYS. **See VOTING IN LEGISLATIVE BODIES.**

YOUNG, BRIGHAM. Brigham Young (1801-1877), chief apostle and prophet of the Mormon church in the United States, was born at Whitingham, Vt., June 1, 1801. In 1832 he became a convert to Mormonism, was ordained

an elder, and sent as a missionary to Canada. In 1834 he went with the "Zion's Camp" expedition to Missouri, and the next year became one of the twelve apostles of the sect. On the death of Joseph Smith, in 1844, he was chosen prophet. In 1846, after the expulsion of the Mormons from Nauvoo, Ill., he led his followers across the plains to Utah (*see*), and founded Salt Lake City. He was chosen governor of the so-called State of Deseret in 1849, and in 1851 was appointed governor of the territory of Utah, holding that office until 1857, when he was removed. He was twice arrested for bigamy, but on each occasion the case was dismissed. Under his leadership much of the desert was reclaimed, but he resisted the attempts of the Federal Government to influence affairs in Utah, and his long rule was attended by incidents of violence and terrorism. He died in Salt Lake City, August 29, 1877. **See POLYGAMY; UTAH.** **References:** E. W. Tullbridge, *Life of Brigham Young* (1876); H. Bancroft, *Hist. of Utah* (1889). W. MACD.

YOUNG HICKORY. A sobriquet given Martin Van Buren (*see*) about 1836 when as Democratic presidential candidate he became the political heir to "Old Hickory," Andrew Jackson. Also said to have been applied to James K. Polk (*see*).

YUKON. An administrative district of the Dominion of Canada comprising the territory lying northward of British Columbia, westward of the district of Mackenzie, and eastward of Alaska. It has an area of 196,976 square miles, and a population of about 50,000. The political history of the district began with the influx which followed the discovery of the Klondike gold-fields during the closing years of the nineteenth century, and the establishment of a separate civil government for the district by act of the Canadian Parliament in 1903 (2 *Edw. VII. c. 34*). The territory of Yukon is represented in the federal parliament by one member in the House of Commons. Its local government consists of a commissioner appointed by the governor general, and an executive council of ten members of whom five are appointed and five elected. The seat of government is at Dawson City. W. B. M.

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